



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

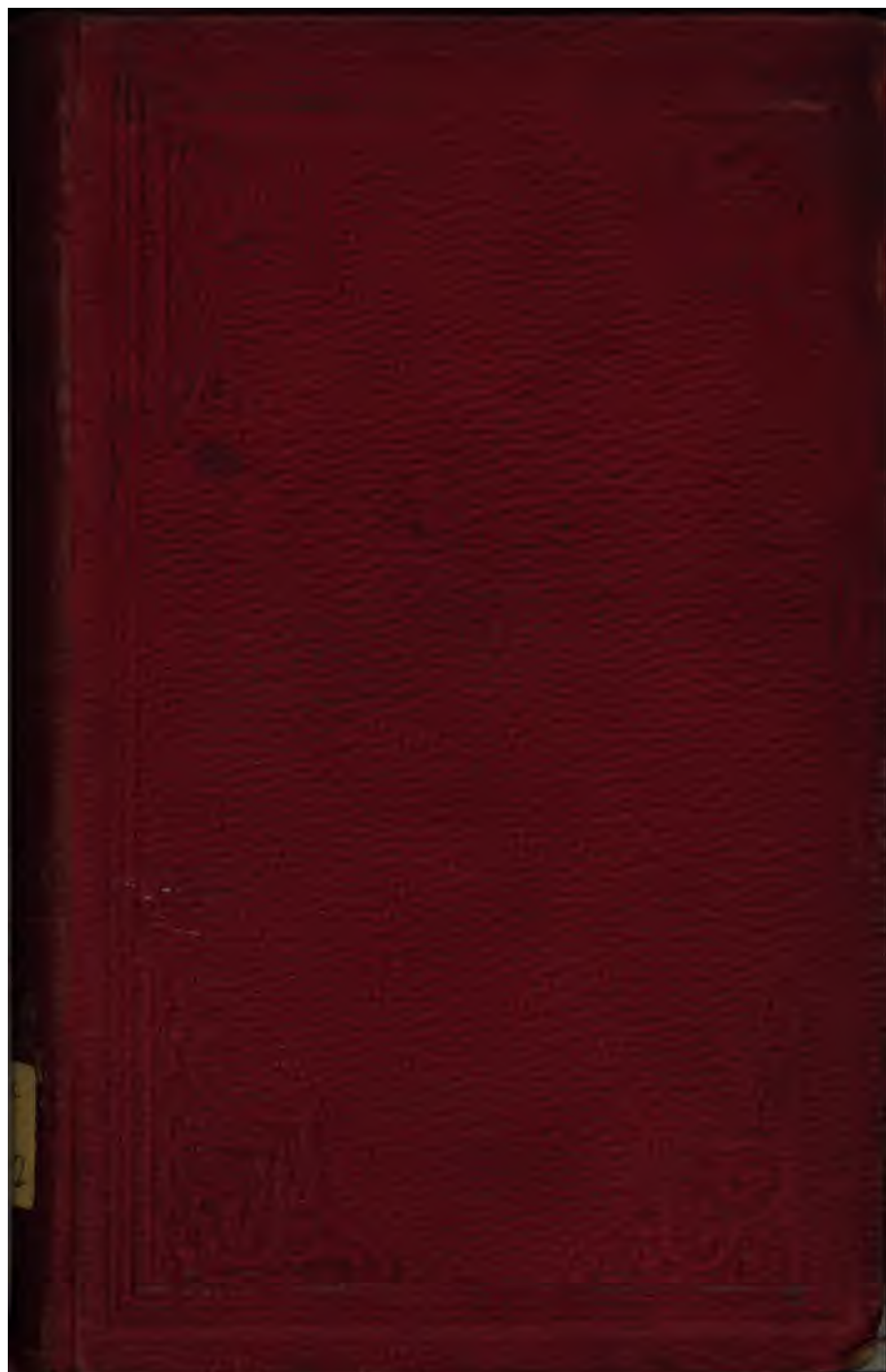
Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



Pat. from Godfrey

York

L. Eng B. 78e Army 1

OW.U.E.

660

B128a 2



Mechanics

OBSERVATIONS
ON
THE PRACTICE AND THE FORMS
OF
DISTRICT, REGIMENTAL, AND DETACHMENT
COURTS MARTIAL.

ALSO
REMARKS ON THE COMPOSITION AND PRACTICE
OF
COURTS OF INQUIRY,

ETC. ETC.

BY LIEUT.-GENERAL SIR GEORGE D'AGUILAR, K.C.B.,
FORMERLY DEPUTY ADJUTANT-GENERAL IN IRELAND.

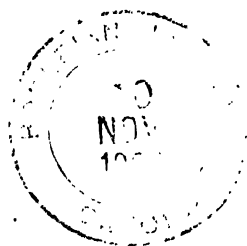
REVISED
BY JOHN ENDLE, ESQ.,
ADJUTANT-GENERAL'S DEPARTMENT, DUBLIN.



THIS EDITION COMPREHENDS THE VARIOUS ALTERATIONS THAT HAVE TAKEN
PLACE IN THE MUTINY ACT AND ARTICLES OF WAR SINCE THE
PUBLICATION OF THE LAST EDITION IN 1866.

DUBLIN:
PRINTED AT THE UNIVERSITY PRESS,
BY M. H. GILL.

1867.



E. H.

CIRCULAR MEMORANDUM.

*Addressed to the Army at
Home and Abroad.*

HORSE GUARDS, S. W.,
19th June, 1865.

General Number 345.

Books &c.

AN additional Charge having been inserted after page 71 had been printed, No. 32 ("Dragoons ill-treating Horses") must be read as No. 33, and so on to the end of the Crimes referred to in pages 72, 73.

Every Officer is required to furnish himself with this Book, in addition to those laid down in paragraph 39, page 126, of the Queen's Regulations.

By Command,
JAMES YORKE SCARLETT,
Adjutant-General.

—

—

THE following Letters are inserted by permission of
H. R. H. the Duke of Cambridge:—

“ROYAL BARRACKS.

“The Duke of Cambridge has received Mr. Endle’s note, with the accompanying revised edition of the work on Courts Martial, for which he begs to return Mr. Endle his best thanks.

“He takes this opportunity of assuring Mr. Endle that the Service is much indebted to him for the trouble he has taken in compiling this most valuable and very comprehensive work, on a subject so intricate, and yet of so much importance to the Army.”

“ST. JAMES’S PALACE.

“DEAR MR. ENDLE,

“I have received your note and the little volume on Courts Martial and Courts of Inquiry which accompanied it, and for both of which I return you my best thanks.

“There is no man who has had more experience in these matters than yourself, and I can, therefore, assure you that I am confident the volume possesses much valuable information on points of the greatest importance to a military man.

“I remain, my dear Mr. Endle,

“Yours very truly,

“GEORGE.”

THE revised "Observations on Courts Martial and Courts of Inquiry" have, in the last and present editions, attained to a completeness considerably aided by the result of forty years' experience, both practical and theoretical. The merits of the work, and its general utility, have been fully acknowledged by the most distinguished heads of the Army, in numerous complimentary letters with which Mr. Endle has been favoured. From amongst these, the following names have been selected :—

HIS ROYAL HIGHNESS THE LATE PRINCE CONSORT, K. G., G. C. B.
 HIS ROYAL HIGHNESS THE PRINCE OF WALES, K. G., K. S. I.
 HIS ROYAL HIGHNESS THE DUKE OF CAMBRIDGE, K. G., G. C. B.
 THE LATE FIELD MARSHAL THE DUKE OF WELLINGTON.

Lieut.-General the Earl of
 Cardigan, K. C. B.
 The late Viscount Hardinge,
 G. C. B.
 The late Lord Panmure.
 The late Field Marshal Lord
 Raglan.
 The late Field Marshal Lord
 Seaton, G. C. B.
 The late General Sir George
 Brown, G. C. B.
 The late General Riddell, K. H.
 The late Lieut.-General Napier,
 C. B.
 Lieut.-Gen. Wetherall, G. C. B.
 The late Lieut.-Gen. W. G.
 Cochrane.
 The late Lt.-Gen. Turner, C. B.
 The late Lieut.-Gen. Sir Robt.
 Gardiner.
 The late Lieut.-Gen. Mansel,
 K. H.
 Lieut.-General Sir C. Yorke,
 K. C. B.
 Lieut.-Gen. Sir J. L. Penne-
 father, G. C. B.
 Lieut.-Gen. Eden, C. B.
 Major-General Greaves.

Major-General J. Cox, K. H.
 The late Major-General Wyn-
 yard, C. B.
 Lieut.-General Forster, K. H.
 Major-General Wood, C. B.
 Maj.-Gen. Sir R. P. Douglas, Bt.
 The late Major-Gen. Trevor.
 Major-General Doyle.
 Colonel French.
 Colonel Sullivan.
 Colonel K. D. Mackenzie, C. B.
 Colonel Brough.
 Colonel W. Smith.
 The late Colonel Mylius.
 Colonel Lord Seaton.
 Lieut.-Colonel Hart.
 Lieut.-Colonel Hillier.
 Lieut.-Colonel White.
 Major Addison.
 The Rt. Hon. Charles Pelham
 Villiers, M. P., late Judge-
 Advocate-General.
 Francis Newman Rogers, Esq.,
 late Deputy Judge Advocate-
 General.
 The Rt. Hon. Thomas Emer-
 son Headlam, M. P., Judge-
 Advocate-General.

PREFACE.

THE following observations have been drawn up for the purpose of facilitating the practice of District or Garrison, Regimental, and Detachment Courts Martial, and of showing the preliminary steps to be taken in the formation of those Courts, as well as the measures to be adopted in the course of, and subsequent to, trial.

They indulge in no speculations, but are founded solely on the Mutiny Act and Articles of War, and on the Rules and Regulations of the Service, as laid down by the proper authorities. If they shall be found to contribute in any way to the information and accommodation of the Officers of the Army, and, above all, if they shall assist in giving uniformity and stability to the principles laid down for their guidance, the object of the Compiler will have been fully accomplished.

DISTRICT OR GARRISON COURTS MARTIAL.

A DISTRICT or Garrison Court Martial must consist of not less than seven Commissioned Officers (except in Bermuda, the Bahamas, the Cape of Good Hope, or other Settlements in Southern Africa, St. Helena, Jamaica, Honduras, Newfoundland, New Zealand, the Australian Colonies, the Windward and Leeward Islands, British Guiana, Hong Kong, and the settlements on the Coast of China, where it may consist of not less than five Commissioned Officers ; and in the settlements on the Western Coast of Africa, where it may consist of not less than three Commissioned Officers), and may be composed of any Officers of different Corps, and of Officers of the Royal Artillery and Engineers, and Royal Marines, and of Officers of the General Staff, whose appointments have been duly notified in General or Garrison Orders; or such Court may be entirely composed of seven Officers of the same

9th Clause,
Mutiny
Act.

108th Article of War.

108th and
110th Arti-
cles of War.

6th Clause,
Mutiny
Act.

Regiment, assembled by order of the Senior Officer on the spot, provided that such Court be assembled in conformity with the orders of the Officer under whose general command the Corps is placed, and who is authorized to exercise his discretion, either in delegating or withholding the power to commanding Officers to convene District or Garrison Courts Martial, as he may deem most expedient; but this power cannot be vested in any Officer below the rank of Field Officer, except in detached situations beyond seas, where a Field Officer is not in command, in which case a Captain may be authorized to convene District or Garrison Courts Martial.

In cases where the Commanding Officer of a Corps shall be empowered to convene District or Garrison Courts Martial from time to time *without* previous reference to superior authority, it will only be necessary to take care, before proceeding to trial, that the offences charged are cognizable by a tribunal of that description.*

“*Mutiny*” (except on the Line of March);

* The Proceedings are, in all cases, forwarded by the President to the *Officer who convened the Court*, to be by him transmitted for approval and confirmation.

"Striking, using or offering violence to a Superior Officer, being in the execution of his office;"

"Striking, using or offering violence, when confined in a Military Prison, against a Visitor or other, his Superior Military Officer, being in the execution of his office;"

"Disobeying the lawful command of a Superior Officer;"

"Sleeping on his Post, or Leaving his Post before being regularly relieved;"

—are crimes which are strictly cognizable only by a General Court Martial, and consequently cannot be tried by an inferior tribunal, unless a special application be made through the prescribed channel, in order to obtain the sanction of the General Officer of the District for that purpose, under the 140th Article of War.

In every case of trial by a District or Garrison Court Martial, the sentence must be confirmed by the General Officer, Governor, or Senior Officer in command of the District, Garrison, Island, or Colony in which the Corps may be serving; and the President, not being under the Rank of Captain, must be appointed by the Officer convening the Court, and must in no case be the Commanding Officer, or the Officer whose duty it has been to investigate

127th Article of War.

the charges on which the Prisoner is to be arraigned.

On those Stations where the General Officers commanding may deem it expedient to withhold from Officers in command of Corps and Depots the power of convening District or Garrison Courts Martial, and may think proper to confine the delegation of that power to General or other Officers commanding Brigades, Districts, or Garrisons, it becomes necessary that application should in every case be made to such General or Superior Officer, with a view to obtain the requisite authority for assembling the Court.

The Form of Application to meet cases of this nature, as prescribed by the Authorities at the Horse Guards, will be found in the Appendix annexed, A.*

130th Article of War.

In addition to any other punishment which a Court may award, a Court Martial may further sentence any offender to be put under stoppages of pay until he shall have made good—

“ Any Bounty or Free Kit fraudulently obtained by him by Desertion from his Corps, and enlisting in some other Corps, or in the Militia ;

* These forms are supplied to Corps on application to the War Office, London.

“Any loss or damage occasioned by him in any instance of disgraceful conduct.

“Any loss or destruction of, or damage or injury to, any property whatsoever, occasioned by his wilful or negligent misconduct.

* Any medal or decoration for Service in the Field, or for General good conduct, which may have been granted to him by our order, or any medal or decoration which may have been granted to him by any Foreign power, which medal or medals he may have been authorized to wear or may have made away with or pawned.

“Any loss, destruction, or damage of his Horse, Arms, Clothing, Instruments, Equipments, Accoutrements, or Regimental Necessaries, or of those of any Officer or soldier, or of any extra article of Clothing or equipment that he or any other soldier may have been put in possession of, and ordered to wear on the recommendation of the Surgeon.

“Any expense necessarily incurred by his drunkenness or other misconduct.”

Except in the case of the loss, destruction, or damage of any Arms, Clothing, Instruments, equipments, accoutrements, or Regimental Ne- 130th Article of War.

Horse
Guards, Circular Me-
moranda,
7th August
and 8th Oc-
tober, 1857.

cessaries, in which case the Court may by its sentence direct that the said stoppages shall continue until the cost of replacing the same be made good, the amount of any loss, destruction, damage, or expense, shall be ascertained by evidence, and the offender shall be placed under stoppages for such an amount only as shall be proved to the satisfaction of the Court.—Provided also, that when an offender is put under stoppages for making away with or pawning any Medal or Decoration, the amount shall be credited to the public; but the Medal or Decoration in question shall not be replaced except under special circumstances, to be determined by the Commander-in-Chief, with the concurrence of the Secretary of State for War.—Provided also, that after satisfying the Charges for his messing and washing, so much of the pay of the Soldier may be stopped and applied as shall leave him a residue at the least of One Penny a Day.

Except, therefore, in the case of any Arms, Clothing, Instruments, Equipments, Accoutrements, or Regimental *Necessaries*, which may be directed to be replaced at a regulated price, no stoppages for loss or damage can legally be awarded, unless the *amount is specified in the charge, and distinctly proved by evidence.*

The law requires that the Court, having received evidence of the amount given under the sanctity of an oath, should pronounce in their sentence what they consider that amount to be.*

It is to be understood that compensation for damage done to the building, furniture, and utensils, by Soldiers when in confinement in Military Prisons, may be assessed by the prison authorities, acting under orders of the Secretary of State for War, in the same manner as Barrack Damages are assessed by the Barrack Department, without the necessity of having recourse to a Court Martial to enforce the payment.

Circular
Memorandum, Horse
Guards,
23rd Nov.
1849.

A District or Garrison Court Martial is now authorized, *in addition* to any sentence of Corporal Punishment, to award Imprisonment, with or without hard labour, and with or without Solitary Confinement, not exceeding the periods prescribed by the Articles of War.

23rd Clause,
Mutiny
Act.

In all cases in which Corporal Punishment shall form the whole or part of a sentence, Her Majesty or the *Confirming* Officer may commute such Corporal Punishment to Imprisonment,

24th
Clause, Mu-
tiny Act.

* Reference to the Mutiny Act and Articles of War is not necessary in awarding sentences of stoppages of pay. *Vide* Appendix, No. 71.

for any period not exceeding *Forty-two Days*, with or without hard labour, and with or without solitary confinement; or may mitigate such sentence; or, instead of such sentence, may award Imprisonment, either solitary or with or without hard labour, for any period not exceeding *Twenty Days*, and Corporal Punishment to be inflicted in the Prison, not exceeding *Twenty-five Lashes*; care being taken, however, that the portion of *Solitary Confinement* never exceeds the period prescribed.

The Provision of the Mutiny Act, by which Prisoners are to be subjected to Punishment within the Prisons, is intended to apply to *Commuted Sentences alone*; and Corporal Punishments which are to take effect according to the original Sentence are to be inflicted, as heretofore, *on the Parade*.

Horse
Guards,
Circular
Memoran-
dum, 18th
July, 1850.

It must be understood that Corporal Punishment is to be inflicted within the Prison only in cases in which the sentence has been *mitigated* by commuting a portion of it for an *additional Term of Imprisonment*; but that when any part of the Sentence is remitted or forgiven, without substituting additional Imprisonment, the remainder of the Corporal Punishment is to be inflicted in the usual manner *on parade*.

The infliction of Corporal Punishment is re-

stricted by the 22nd Section of the Mutiny Act to the crime of mutiny and insubordination accompanied with personal violence, except while on active Service in the field, or on board any ship not in Commission, when any Court Martial may award Corporal Punishment for Mutiny, Insubordination, Desertion, Drunkenness on Duty or Line of March, Disgraceful Conduct, or any breach of the Articles of War.

The infliction of Corporal Punishment a second time under one and the same sentence is illegal. The Culprit is, therefore, to be considered as having expiated his offence when he shall have undergone, *at one time*, as much of the Corporal Punishment to which he has been sentenced, as, in the opinion of the Medical Officer in attendance, he has been able to bear.

Queen's Regulations,
R. 228.

It has been ruled by Authority, that whenever a Soldier is tried upon Two or more Charges, and Corporal Punishment is not applicable to the Graver charge, under the General Regulations and Orders of the Army already referred to, the Court should abstain from awarding that species of Punishment for the lesser, and have recourse to Imprisonment, solitary or otherwise, or both.

In all cases of the award of Corporal Punishment by *District or Garrison* Courts Martial, it is very desirable, more especially in Garrison Towns, that the Court should, by the wording of their sentence, leave the time and Place for carrying the punishment into effect to the *Confirming* Officer, who will exercise his discretion, either in directing the punishment to be inflicted in presence of the whole, or a portion only of the Troops in Garrison (according to circumstances, and with reference to the example that may be deemed necessary for the occasion), or on the private parade of the Corps to which the offender belongs.

Horse
Guards,
Circular,
10th Aug.,
1846.

Previous to carrying into effect any Sentence of Corporal Punishment, the Regulations require that the Culprit should undergo a minute Medical Inspection, in order that it may be ascertained that he is in a state of Good Health, and in all respects capable of bearing it. Attention is also required to be paid to the state of the weather at the time of inflicting the Punishment, whether of extreme heat, cold, or damp, which might have an influence upon the health of the man after its infliction.

Queen's
Regula-
tions, page
227.

In every case the infliction of Corporal Punishment must take place in the presence of a Mili-

tary Medical Officer, and is not to be carried into effect on a Sunday, except in cases of evident necessity.

The limit fixed by the *Legislature* to the *Term* of Imprisonment to be awarded by a General or Garrison District Court Martial, is two years. *Solitary* Confinement, as already stated, is *restricted to fourteen days at a time*, with intervals of not less than fourteen days between such periods.* A special Rule applies whenever the Imprisonment awarded exceeds eighty-four days;—in such a case the Court should expressly order (as already stated), that the Solitary Confinement shall not exceed seven days in any twenty-eight days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. It is to be observed, that the nature and extent of Impri-

Queen's
Regula-
tions, page
225.

* Although by Art. 23, p. 225, of the Queen's Regulations, the duration of Imprisonment for all Ordinary Offences is limited to *Six Months*, a District Court Martial is empowered, in very grave cases, to inflict any term of Imprisonment not exceeding two years, with hard labour and solitary confinement, in the proportions already laid down.—*Vide* Confidential Circular, dated Horse Guards, 20th October, 1864. Appendix, No. 64.

sonment generally must of course vary according to locality and circumstances, and more especially with reference to climate, as extremes of heat and cold equally prescribe caution.

Whenever a Court Martial shall adjudge an Offender to be kept in *Solitary* Confinement for any portion or portions of his Imprisonment, the *precise* portion or portions of the Imprisonment which is, or are, to be passed in Solitary Confinement, should be *distinctly specified* in the Sentence. But, as the number of cells provided in the District Military Prisons for enforcing Sentences of *Solitary Confinement* is but limited, Courts Martial are recommended, in passing Mixed Sentences of Imprisonment, to leave it to the discretion of the Governor of the Prison to appoint the precise period or periods of the Imprisonment at which the Offender shall undergo Solitary Confinement. It is unnecessary, however, that any allusion to such discretion should be made in the wording of the sentence of the Court.

Circular
Memorandum, Horse
Guards,
26th July,
1845; 20th
July, 1861.

Courts Martial are further recommended to refrain from sentencing to simple "Imprisonment" Prisoners who they may have reason to apprehend will be committed to District and Provost Prisons, and to confine their awards to "Imprisonment with hard Labour," or to

Circular
Memorandum, Horse
Guards,
13th Aug.,
1845.

“Solitary Confinement,” or to a combination of those two punishments.

As Courts Martial may in some instances be deterred from awarding Sentences of “*Imprisonment with Hard Labour*,” in cases where the Certificate laid before the Court from the Medical Officer,* as to the fitness of the Prisoner at the time to undergo much bodily exertion, is given in a qualified form, it is recommended that in all cases where the Certificate states that the Prisoner is *unequal to labour requiring much bodily exertion*, Courts Martial should, nevertheless, award “*Imprisonment with such labour as in the Opinion of the Medical Officer of the Prison the Prisoner may be equal to*,” it being understood that there are various descriptions of light labour, to which such Prisoners may, conveniently, be subjected in the Military Prisons, without injury to their health.

Queen's
Regula-
tions, page
225, para.
26.

Medical Officers are enjoined to be extremely careful to particularize in their Certificate on the form of Commitment, the grounds on which they consider the Prisoner unfit for the ordinary hard labour of the Prison.

* *Vide* pages 78, 95.

In carrying into effect a sentence of Imprisonment, it is always desirable to have recourse to a place of *Military* Confinement; but should there be no Military Prison or Barrack Cells available, a Public Prison must of necessity be resorted to: on all such occasions that place of Imprisonment will be fixed upon by the Confirming or Commanding Officer, the regulations of which shall appear best calculated to answer the ends of Discipline.

It will be borne in mind, however, that it is for the advantage of Discipline in *Military* Prisons, not to commit to them *Incorrigible Delinquents* and Prisoners, whom, from the *disgraceful* nature of the Offences of which they have been convicted, it may be deemed expedient to discharge at the termination of their Imprisonment: and looking to the importance of such a measure, the Commander-in-Chief has decided that all prisoners intended for Discharge on the termination of their Imprisonment shall be sent to Civil and not Military Gaols, in conformity with the 150th Paragraph of the Regulations for Military Prisons. If the soldier is to be discharged with Ignominy, the prescribed forms are to be gone through before he is permitted to leave the Regiment, and the Discharge Documents in all cases are to be

Circular
Memorandum, Horse
Guards,
18th June,
1862.

completed and forwarded for confirmation a short time previous to the expiration of Imprisonment. At the expiration of the period of their Confinement, their Parchment Certificates of Discharge will be delivered to them by the Governor of the Prison, whose receipt for the same should be taken by the Officer commanding the Corps.

Whenever a Court Martial avails itself of the power conferred on it by the 28th clause of the Munity Act, regarding the Imprisonment of Offenders already under Sentence for previous Offences, the Court should adhere carefully to its provisions, by awarding in direct terms that the Imprisonment *is to commence at the expiration of the Imprisonment to which the Prisoner had been previously sentenced.*

Whenever the term "*Month*" is used in a Sentence, without any words to infer that a Calendar Month is intended, the Law considers it to be a "Lunar" Month; unless, therefore, "*Calendar*" Months are expressly specified in a Sentence of Imprisonment, the period must be reckoned in Lunar Months of twenty-eight days.

If a Soldier be sentenced to forfeiture of pay, or additional pay, for a particular period, not specifically included in the period of Imprison-

28th
Clause, Mu-
tiny Act.

Explanatory
Directions, 1st
July, 1848,
page 56.

ment, such award is to be considered as in addition to the penalties of Imprisonment, and to commence from the termination of such Imprisonment. A Soldier already under sentence of Forfeiture, if *again* confined and convicted before the first Sentence is expired, is not to be allowed to reckon the period of such Confinement towards the completion of the first Sentence. Soldiers imprisoned by the Commanding Officer for periods not exceeding seven days forfeit pay and service towards Good Conduct Pay and Pension on Discharge for the periods of such Imprisonment.

If a Soldier is removed into Hospital whilst undergoing a Sentence of Confinement, the period during which he is in hospital is to reckon as part of such sentence.

A Soldier thus circumstanced, if he shall recover before the Sentence awarded expires, may of course be sent back to Imprisonment to complete the remainder of the Sentence.

Soldiers who break out of Prison when confined by sentence of a Court Martial are liable, if retaken, to undergo the unexpired period of the punishment awarded ; and the time during which they may have been absent is to be reckoned as part of the period of Imprisonment.

It may be desirable in this place to advert to

the provisions contained in the Mutiny Act now in force regarding the Custody of Offenders under Military Sentence in Civil Prisons, and also in respect to their Discharge or removal therefrom to some other Prison or place of confinement.

By the 30th clause it is enacted—“ That ^{30th} ^{Clause, Mu-} ^{tiny Act.}
 “ every Governor, Provost Marshal, Gaoler,
 “ or Keeper of any Public Prison, or of any
 “ Gaol or House of Correction in any part of
 “ her Majesty’s Dominions, shall receive into
 “ his custody any Military Offender under Sen-
 “ tence of Imprisonment by a Court Martial,
 “ upon delivery to him of an order in writing
 “ in that behalf from the General Commanding-
 “ in-Chief, or the Adjutant-General, or the
 “ Officer who confirmed the Proceedings of the
 “ Court, or the Officer commanding the Regi-
 “ ment or Corps to which the Offender be-
 “ longs or is attached, which order shall specify
 “ the offence of which he shall have been con-
 “ victed and the Sentence of the Court, and
 “ the period of Imprisonment which he is to
 “ undergo, and the day, and hour of the day,
 “ on which he is to be released;— and such
 “ Governor, Provost Marshal, Gaoler, or Keeper,
 “ shall keep such Offender in a proper place of
 “ Confinement, with or without Hard Labour,

“ and with or without Solitary Confinement,
“ according to the Sentence of the Court, and
“ during the time specified in the said Order,
“ or until he be discharged or delivered over to
“ Military Custody before the expiration of that
“ Time, under an order duly made for that
“ Purpose;—and whenever Troops are called
“ out in aid of the Civil Power, or are stationed
“ in Billets, or are on the Line of March, every
“ Governor, Provost Marshal, Gaoler or Keeper
“ of any Public Prison, Gaol, House of Correction,
“ Lock-up House, or other Place of Confinement,
“ shall receive into his Custody any
“ Soldier, for a period not exceeding Seven
“ Days, upon delivery to him of an order in
“ writing on that behalf from the Officer commanding such Troops.”

31st Clause.

The 31st Clause of the Mutiny Act provides for the removal of prisoners undergoing Imprisonment, under the Sentence of a Court Martial in any Public Prison, other than a Military Prison, set apart by the authority of this Act, or in any Gaol or House of Correction in any part of her Majesty's Dominions.

It may be right here to observe, that although, by the wording of the last recited clause, *Military Prisons* are exempted from its Provisions, the Secretary of State for War, in the exercise

of the power vested in him by the Legislature, has given full power to General or other Officers commanding Districts in which Military Prisons are situated to direct the removal of Offenders from Military Prisons, whenever it shall be deemed expedient so to do ; but this power does not extend to Officers commanding Corps or Detachments, who cannot remove a Prisoner who shall have been once committed to a place of Confinement, under the Sentence of a General, District, or Garrison Court Martial, without the previous sanction of the General commanding-in-Chief, or the Adjutant-General, or the Officer commanding the District or Garrison in which the Prisoner may be, or of the confirming Officer.

The Legislature having now provided a salutary remedy for the evil which heretofore existed upon this important subject, it only remains to carry out the details of the measure by Commanding Officers of Corps availing themselves of the power they possess of taking their Prisoners with them on the march from one Station to another (that is to say, Men in Confinement by Sentence of *Courts Martial*, for Soldiers in Custody for Civil Crimes cannot, of course, be interfered with), and thereby prevent the inconvenience and expense of sending for

them, or of employing Non-Commissioned Officers of other Regiments to conduct them on the termination of their Imprisonment to the New Quarters of the Corps to which they belong : thereby affording an opportunity to the liberated Soldier of again committing himself on the Line of March—for it will be borne in mind, that men thus situated cannot be treated as *Prisoners*, in the strict sense of the term.

To guard against any difficulty arising when the period arrives for effecting the removal of a Prisoner from one place to another for the purpose of undergoing the remainder of his sentence, it will readily occur to the Officer commanding a Corps to which the Offender belongs, or is attached, to make a *timely* application to the proper authorities through the prescribed channel, and thus possess himself before the March with the required consent, in order that the Prisoner may accompany the Corps to its new Station.

In the Appendix, C., a form of Application is introduced, the principle of which is recommended for adoption in cases of this nature.

It is suggested, in order to facilitate the object, that the application be furnished in *Duplicate*, one copy being retained as a Record by

the Officer commanding the District, or Confirming Officer, and the other (having the signature of approval affixed) returned to the Officer commanding the Corps, from whom the application shall have proceeded.

It may be desirable in every case that the application should be accompanied by a letter from the Officer commanding, addressed to the Assistant Adjutant-General, or other staff Officer of the District, according to the usage of the Service.

Instances may doubtless sometimes occur, where the Officer commanding the District, or Confirming Officer, may not deem it advisable to sanction the removal of a culprit from the prison in which he may be undergoing his confinement to another place ; and this will always be the case when the Officer commanding the District, or Confirming Officer, is aware that there is no suitable place for carrying the remaining or any portion of the Sentence into effect, at or near the Station which the Corps to which the offender belongs is about to occupy.

If circumstances should occur, of a nature to induce a Commanding Officer to intercede in favour of a Soldier undergoing Imprison-

ment in a Public Prison* by Sentence of a General, District or Garrison Court Martial, with a view to his *discharge altogether* from custody, by a remission of the remaining portion of his Sentence, it will be desirable that the application for that purpose should be made to the General Officer of the District (observing always the usual channel of communication), accompanied by a full and detailed statement of the grounds on which it is founded; as also, by a copy of the Crime and Sentence of the Court, with an extract from the Court Martial Book of the previous convictions recorded against the Prisoner; which statement and information on the foregoing points should always be supplied; but these will be more particularly necessary, in case the General Officer applied to should happen not to have confirmed the proceedings

* All recommendations from Commanding Officers for the *remission* of Imprisonment in the cases of Soldiers confined in the *Military* Prisons, by Sentence of Regimental Court Martial, should be addressed to the Visitors of the Military Prisons to which such Soldiers shall have been committed, as directed by the Circular Memorandum, dated Horse Guards, 20th May, 1847, a copy of which, for more ready reference, will be found in the Appendix, No. 63.

of the Court Martial, and who could not, therefore, come to any decision unless the whole of the facts are placed before him.

If the Prisoner is undergoing confinement by Sentence of a *General* Court Martial either in a Public or Military Prison, his *release* before the termination of the period awarded cannot be authorized without a previous reference to Head Quarters. If confined in a Public Prison by Sentence of a *District or Garrison* Court Martial, the power of remission, of course, rests with the General Officer of the District, Garrison, or Colony, or of the Officer by whom the Sentence of the Court shall have been confirmed. But no Soldier committed to a *Military* Prison can be legally discharged from Custody before the expiration of his sentence without the Secretary of State for War's sanction, or that of one of the General or other Officers, to whom he may have deputed his authority to remit sentences.*

It may be scarcely necessary to observe, in the case of an offender undergoing Imprison-

Horse
Guards,
Circular
Memoran-
dum, 20th
May, 1847.

* The Visitors of a Military Prison may recommend Prisoners for a remission of a portion of their Sentence. Sentence of Prisoners condemned by General Courts Martial can only be remitted by the Queen.

ment by sentence of a *Regimental* Court Martial, in a Public Prison or Gaol, the Commanding Officer, of his sole authority, may order his discharge from confinement previous to the expiration of his sentence, and should he (after having ascertained the correctness of the man's conduct while in confinement) see sufficient grounds for the exercise of such lenity, or direct his removal to some other place of confinement, whenever circumstances shall occur to render such a measure necessary; bearing in mind always that the time of removal is to be reckoned as imprisonment under the Sentence, whether *Solitary* or otherwise.

31st Clause
Mutiny
Act.

On the *first* committal of an offender to custody, as well as on every occasion of his *subsequent* committal, on being removed from one place of confinement to another, the Officer commanding the Regiment or Corps to which the Soldier belongs, or is attached, will be careful always to specify, in the written order (or Form of Commitment, which is invariably to be in the prescribed War Office Form) to the Governor of the Prison, Gaoler, or Provost Marshal, receiving the Prisoner into custody the *precise period* and *nature* of the Imprisonment which the offender is to undergo, and the day, and the hour of the day, in which he is to

be released, including the days both of the signing of the sentence, and of the release of the Prisoner. It will always be borne in mind, that whenever it happens that the last day of the sentence falls upon the Lord's Day, the Prisoner should be *released on the day previous*.*

As a Prisoner is entitled to his discharge at an early convenient hour of the last day of his Sentence, it has been ruled by the Secretary of State for War, that Escorts shall be sent for Prisoners on the day on which their Sentence expires, when the Corps to which such Prisoners belong is stationed sufficiently near to enable the Escorts to reach the Military Prison before twelve o'clock, and return to their quarters the same day. Prisoners may be released at seven o'clock, A. M., on the day on which their sentences expire.

Military
Prison Re-
gulations.

When the Sentence expires on a Sunday, Christmas Day, or Good Friday, Prisoners may be released on the previous day at four o'clock, P. M., or at such earlier hour as will en-

* Escorts with Prisoners should be sent so as to arrive at the Prison before six o'clock, P. M.; and Prisoners should not be sent so as to arrive at the Prison on Sunday, Christmas Day, or Good Friday.

able the Non-Commissioned Officer sent to take charge of them to return to his Corps the same evening.

Prisoners confined in Garrison or Barrack cells are to be released from the cells after the regular dinner-hour, and before dark in the evening. (*Vide* "Queen's Regulations," Art. viii., p. 232.)

Every term of Imprisonment under the Sentence of a Court Martial, whether *original* or *revised*, is to be reckoned as commencing on the day on which the *original Sentence and proceedings shall have been signed by the President*.

81st to 83rd
Articles of
War.

For certain crimes specified and comprehended under the head of *Disgraceful Conduct*, a District or Garrison Court Martial may, in addition to Imprisonment, sentence a Soldier to forfeit all advantage as to additional Pay, Good Conduct Pay and Pension on discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, and to forfeit any Good Conduct Badges, Medals, or Decorations, and any Annuities or Gratuities relating thereto; and to be discharged with Ignominy from Her Majesty's

Service, and to be marked on the right breast with the Letters B. C.*

It will sometimes happen, notwithstanding the sentence of the Court, that the Commander-in-Chief may not deem it expedient to authorize the man's discharge with Ignominy, but may direct his retention in the Service. It is very desirable, therefore—indeed, it is so ordered from Head Quarters—that in cases in which a Court Martial awards the forfeiture of Pension upon discharge, *the forfeiture of the Additional Pay*, or Good Conduct Pay (as the case may be) should invariably form a part of the award, and be specified in the Sentence.

Circular
Memoran-
dum, dated
Horse
Guards,
81st July,
1838.

Any Soldier convicted by a *District* or *Garri- 78th Arti-
son* Court Martial of "Habitual Drunkenness," cle of War.
that is to say, having been Drunk four times within three hundred and sixty-five days, or twice Drunk when on or for Duty or on Parade, or on the Line of March, may be deprived of one Penny a day of his Pay, for any period not less than one hundred and sixty-eight days, and not exceeding six hundred and seventy-two days,

* By 26th Clause of the Mutiny Act, the Confirming Officer is authorized to order such Sentence of the Court, if he approves of the same, both in respect of the Discharge and of the Marking, to be carried into effect.

subject to restoration on subsequent good conduct; and in addition to such punishment the Court may (if it shall think fit) sentence the Offender to any other punishment which the Court may be competent to award; and all the instances of Drunkenness referred to in the charge, other than that which occurred last, shall be proved by reference to the Defaulters' Books, or by satisfactory evidence of the entries therein.* If the instance of Drunkenness which occurred last should be proved, but the offence of Habitual Drunkenness should not be proved, the Court may acquit the Prisoner upon the charge for Habitual Drunkenness, and find him guilty upon the single instance of Drunkenness, and sentence him accordingly.

Any Soldier who at any time within one hundred and sixty-eight days after a conviction for Habitual Drunkenness, shall be Drunk *twice*, or shall be *once* Drunk when on or for Duty, or on Parade, or on the Line of March, shall on proof thereof be again convicted of Habitual Drunk-

* It has been ruled by authority that the proper mode of framing a charge for Habitual Drunkenness is thus:—

“For Habitual Drunkenness in having been drunk,” &c. &c.

The nature of the crime should always be stated at the beginning of a charge, not at the end of it.

eness, and shall, over and above any former forfeiture or forfeitures of Pay, be further deprived of one Penny a day of his Pay for any period not exceeding one hundred and sixty-eight days, if convicted before a Regimental or Detachment Court-Martial, and for any period not less than one hundred and sixty-eight days, and not exceeding six hundred and seventy-two days, if convicted before a District or Garrison Court-Martial; and in addition to such punishment, the Court may sentence such Offender to any other punishment which the Court may be competent to award.

But if a charge of Drunkenness on Duty under Arms, or of Drunkenness when on or for Duty or on Parade, or on the Line of March, be included in a charge of Habitual Drunkenness, the Court shall not pass any Sentence of Deprivation of Pay in respect of such charge of Drunkenness, whether on Duty or for Duty or on Parade, or on the Line of March; but the deprivation awarded by the Sentence of the Court shall be in respect of Habitual Drunkenness only; and no instance of Drunkenness which has on a former occasion been adduced to prove a charge of Habitual Drunkenness of which a Soldier has been *Convicted*, is again to be adduced against him in support of a similar charge.

It will be here understood that the *finding* and *Sentence* of a Court Martial simply cannot be considered as a legal conviction; to render it so, the finding and sentence must have been duly *Confirmed*. Any Soldier, therefore, convicted of Habitual Drunkenness, where the finding and sentence shall not have been *Confirmed*, is liable to have any of the instances of Drunkenness brought forward against him on that occasion included in a subsequent charge of Habitual Drunkenness.

There can be no doubt, however, that a Soldier may be tried, convicted, and punished on a charge of "Habitual Drunkenness," although he may have been already tried for one or more of the acts of Drunkenness included in the charge; but the last or *immediate* instance of intoxication for which the Prisoner is brought to trial for "Habitual Drunkenness," must neither have been punished nor forgiven, although the preceding instances necessary to be brought forward to constitute a charge of Habitual Drunkenness may be included therein, notwithstanding they had been the subject of punishment, because the continued repetition of the act of Drunkenness on the part of the Prisoner after punishment for it only proves more decidedly the inveteracy of his vicious habits.

In no case can a Soldier be reason of being

Drunk on or for Duty or on Parade, or on the Line of March, or by reason of Habitual Drunkenness, be at any one time placed under forfeitures of Pay exceeding in the whole the amount of *three pence per diem*; but such Soldier, nevertheless, being again convicted of being Drunk on or for Duty or Parade, or on the Line of March, or of Habitual Drunkenness, may be placed under forfeitures of pay to commence at the expiration of a previous sentence of forfeiture, and may be sentenced to any other punishment which the Court is competent to award.

78th Article of War.

The 78th Article of War has not rendered it* *imperative* to bring a Soldier to trial before a Court Martial for "Habitual Drunkenness," immediately on the commission of the precise number of acts of Drunkenness therein specified. The Commanding Officer is at liberty to select cases for trial whenever he shall deem it expedient to do so in his discretion. Hence it occasionally will happen from some palliating circumstances or other, that the Commanding Officer may feel disposed, in the hope of reclaiming the Offender, to abstain from having

* It has been decided that all Soldiers are to be tried for Habitual Drunkenness at the fourth instance.—See Appendix 70.

recourse to a Court Martial until it shall be found useless to extend any further lenity towards him, when there is no alternative but to bring him to trial on a charge of "Habitual Drunkenness," as the only means of checking his evil propensities.

In dealing with the crime of "Habitual Drunkenness," in the case of a young Offender recourse is generally had to a Regimental Court Martial, unless the *immediate* offence shall call for a District Court Martial.

78th Article of War.

It is desirable, in every case of this nature, that the *Charge* shall express the *whole* of the number of acts of Drunkenness committed by the delinquent within a year, or even a shorter period than a year, instead of confining the specification of them to the number of instances of Drunkenness only which strictly constitute the Habitual offence, viz. *four* times within three hundred and sixty-five days, or twice Drunk when on or for Duty or Parade, or on the Line of March, as the case may be.

The principle laid down in the foregoing remarks applies equally to the cases of Soldiers proceeded against for "Habitual Drunkenness," after a previous conviction of that offence.

In any charge of Habitual Drunkenness the Place and Date of the last Instance of Drunken-

ness shall be specified, and also the number of the previous Instances of Drunkenness imputed, and the Period within which they occurred, but the Dates and Places of such previous Instances shall not be specified. Such previous Instances shall be proved by reference to the Defaulters' Books, or by satisfactory evidence of the entries therein; and if the Instance of Drunkenness which occurred last should be proved, but the offence of Habitual Drunkenness should not be proved, the Court may acquit the Prisoner upon the charge for Habitual Drunkenness, and find him guilty upon the single Instance of Drunkenness, and sentence him accordingly.

Horse
Guards,
Circular,
81st Dec.
1850.

78th Arti-
cle of War.

Particular care should be taken, that every entry in the Defaulter's Book is correct as to *time, place, and occasion*, when each instance of Drunkenness occurred; for should credible evidence be adduced to lead the Court to the conclusion that the entry in the Defaulters' Book is incorrect, it would not act upon such entry, and consequently, the particular act of Drunkenness not being proved by any entry in the Defaulters' Book, the Prisoner would be entitled to an acquittal; unless it should so happen that there are other instances of Drunkenness embodied in the charge sufficient to constitute the offence of "Habitual Drunkenness," and which

instances have been satisfactorily proved in evidence.

On a first trial for "Habitual Drunkenness," the 78th Article of War, in defining the offence, states, that it must consist in being Drunk *four* times within three hundred and sixty-five days, or *twice* Drunk when on or for Duty or Parade, or on the Line of March. The fact, therefore, of a Soldier being *twice* Drunk *off* Duty, and *once* Drunk on Duty, within the above period, cannot be considered as constituting an act of "Habitual Drunkenness." To compound the offences in this manner, in order to *force* a charge of "Habitual Drunkenness," is not in accordance with the distinct definition of the Crime as laid down in the Article of War above quoted, and would be clearly illegal.

77th Article of War.

Any Soldier who shall be drunk when on any Duty, not under arms, or for Duty or on Parade, or on the Line of March, *may*, on conviction thereof by any Court Martial, be sentenced to be deprived of a *Penny* a day of his *Pay* for any period not exceeding *Thirty Days*, in addition to any other punishment which such Court shall award; provided that, if any such charge be included in a charge of Habitual Drunkenness, the Court shall not pass any sentence of deprivation of Pay in respect of the

78th Article of War,

charge of Drunkenness on Duty, but the deprivation awarded by the Sentence of the Court must be in respect of *Habitual Drunkenness only*.

When a former conviction of Habitual Drunkenness is stated in any charge of Habitual Drunkenness, such conviction shall be proved by the production either of the Court Martial Book, or of the Regimental or Company Defaulters' Book, containing the entry thereof; or, if such books cannot be produced, then by a copy of the entry in one or other of them duly authenticated; and if any Soldier who has been convicted of having been Drunk when on or for Duty or on Parade, or on the Line of March, or convicted of Habitual Drunkenness, and sentenced in either case to forfeiture of one Penny a day or more of his Pay, shall be at or removed to a station where liquor is issued in kind, or shall be embarked on board of any vessel where liquor is provided as a part of the Ration, such Soldier is to be deprived of his liquor instead of forfeiting one Penny a day of

78th Article of War.

* * A conviction of "Habitual Drunkenness" will render a Soldier liable to be degraded from the 1st to the 2nd Class.—*Vide Horse Guards, Circular Memorandum, dated 31st May, 1861.*

his Pay, for so long a time as he shall be at such station, or on board such vessel, and his sentence to forfeiture of Pay shall continue in force.

In every case, therefore, the Court should expressly state in its Sentence, that the forfeiture is to be levied upon the Prisoner's Pay, without any qualification or conditions whatever.

• 140th Article of War.

The 140th Article of War directs that no Commanding Officer shall, by giving in against a Prisoner vague and indefinite charges, try before a Regimental Court Martial grave offences which are directed to be tried by a General, District, or Garrison Court Martial; but, as in certain cases some of these offences may admit of less serious notice (either from their being attended by palliating circumstances, or from the high character of the Corps to which the offender belongs not calling for a more signal example), a power is vested in the General or Officer commanding the Brigade, District, or Garrison, to exercise his discretion in regard to the description of tribunal before which the delinquent shall be brought to trial. On all occasions, however, of this kind, the Officer commanding the Corps, who may deem it advisable to have recourse to the inferior tribunal, is required to transmit to the General

or Superior Officer a statement of the case, together with the charge or charges proposed for investigation.

In this statement the Officer commanding should enter *fully* and *minutely* into the whole of the particulars connected with the offence immediately under consideration; and he should, moreover, specify his opinion as to the Offender's previous general character and conduct, accompanying such opinion by a descriptive return of his person, statement of his services, and by extracts from the Court Martial and Defaulters' Books; in fact, every possible information should be afforded by him upon the subject, in order that the General or Superior Officer, to whom the application shall be made, may, in the exercise of the discretion vested in him, be enabled to decide at once without the necessity of further reference to the Corps or Depot, whether the ends of discipline may not be sufficiently attained without having recourse to a superior tribunal.

In the Appendix, B., will be found a Form of Application, which is calculated to afford all the information that is likely to be required by the General or Superior Officer in coming to a decision upon the case submitted for his consideration.

It is necessary, however, distinctly to observe, that "MUTINY" is one of those crimes which cannot be considered as coming within the class of offences which admit of less serious notice than investigation before a GENERAL Court Martial, *unless it shall be committed on the Line of March*, or on board any Transport Ship, Convict Ship, Merchant Vessel, or Troop Ship not in commission, when, for the obvious reason of bringing the offender to speedy justice and immediate punishment on the spot, the Articles of War provide that it may be tried, as well as any other gross insubordination, by a *Regimental* or Detachment Court Martial, subject in its sentence to certain limitations, viz.:—"That it shall not exceed that "which a Regimental Court Martial is competent to award."

Any sentence confirmed by the Commanding Officer on the Line of March must be reported to the General Commanding, and noticed in the monthly Return of Courts Martial sent to the Adjutant-General.

The different punishments within the power of a *Regimental* Court Martial to inflict will be found duly detailed under the head "*Regimental Courts Martial*"—page 67.

Circumstances may sometimes occur (viz.,

from the small number of Officers present, or from other causes) which would prevent the assembling of a *Regimental Court Martial on the line of March*, for the trial of "*Mutiny or other gross Insubordination*;" on such occasions, therefore, the Officer in command, on arrival at his new Station, should forward without loss of time, through the regular channel, to the General Officer of the District (or other Superior Officer) a full and detailed statement of all the particulars connected with the offender's misconduct, and await his decision as to the description of tribunal to be resorted to for his trial.

It will of course be here understood, that the Officer commanding, after arriving at his new Station, is at full liberty, without reference to superior authority, to dispose of, *Regimentally*, any cases of Drunkenness (unaccompanied by violence or other gross insubordination), and also any minor offences which may have been committed on the Line of March, and which are *properly cognizable* by a *Regimental Court Martial*.

The crime of "Desertion" is viewed as one of the gravest of the Military Calendar; but, as it admits of many degrees of criminality, arising out of the youth and inexperience of

the offender, and above all with reference to the repetition and frequency of the offence by the same individual, it is humanely provided for by the following regulations:—

136th Article of War.

47th Article of War.

If a man's absence be *less than twenty-one days*,* he may be tried on a charge of "*Absence without Leave*" (but not on a charge of Desertion), by a *Regimental Court Martial*. In all cases, if his absence shall have *exceeded twenty-one days*, the offence cannot be tried otherwise than by a General, District, or Garrison Court Martial, on a distinct charge of "*Desertion*," without the permission of the General or other Officer Commanding Brigade or District. It is not, however, now *imperative* to bring *every* case of Desertion before a Court Martial, as will be seen on reference to the 47th Article of War, wherein it is provided that the Trial may be dispensed with in any case in

* Reckoned, of course, from the day on which he absented himself to the day of his surrender or apprehension, both days inclusive.

In the Appendix, No. 65, will be found a copy of a Circular from the Horse Guards, under date 16th June, 1836, containing specific instructions with regard to the cases of men who may absent themselves without leave for any period not exceeding *five days*.—50th Article of War.

which it shall appear to *the Commander-in-Chief* that there are special circumstances to justify the exception. Instances very rarely occur, however, of a nature to induce a Commanding Officer to recommend the adoption of such a lenient course towards a Deserter.

When the crime shall have been committed under peculiarly mitigating circumstances, and the Commanding Officer shall in consequence be desirous of dispensing with the offender's trial, it will be necessary that a distinct authority be obtained for that purpose. With this view, a statement of all the particulars of the case should be made (through the Assistant Adjutant-General or Brigade-Major) to the General Officer of the District, who will, should he deem fit, forward it, with his recommendation, to the Authorities at Head Quarters.

Previously to the year 1841, the *simple conviction* of Desertion before a Court Martial, whether attended by any aggravating circumstances or not, carried with it, as a matter of course, the forfeiture of all advantage from *past* or *future* Service, both as to Additional Pay and Pension on Discharge; but the 168th Article of War, now in force, provides that every Soldier who shall be found guilty of Desertion by a Court Martial, *when such finding shall have*

168th Article of War.

been confirmed, or of Felony in any Court of ordinary Criminal Jurisdiction in *England* or *Ireland*, or of any crime or offence in any Court of Criminal Judicature in any part of the United Kingdom, or in any Dominion, Territory, Colony, Settlement, or Island, belonging to or occupied by Her Majesty, out of the United Kingdom, which would, if committed in *England*, amount to Felony, shall *thereupon* forfeit all advantage as to additional Pay, Good Conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his *former Service*, in addition to any Punishment which such Court may award.

Detailed instructions for the guidance of Commanding Officers of Corps, in their recommendations for the restoration of Service forfeited by Desertion, are laid down in the Queen's Regulations, pages 173 and 174, Paragraphs 16, 17, 18.

43rd Article of War.

It is at the same time to be observed, that any Soldier absenting himself without Leave may be tried for "Desertion," *without reference to the time during which he has been absent*,*

* This wise proviso has been intended, no doubt, to bring this offence, when committed under aggravated circumstances, or in situations where an immediate example is necessary, at once under cognizance of the higher, or even the highest tribunal.

and may thereupon be found guilty either of Desertion, or of absence without Leave.

“ If any Soldier shall absent himself without
“ leave for any period not exceeding *five days*,
“ and shall not account for the same to the sa-
“ tisfaction of his Commanding Officer, and if
“ any Soldier shall be guilty of any other offence
“ which the Commanding Officer may not think
“ necessary to bring before a Court Martial, the
“ Commanding officer may, in addition to any
“ minor punishment he is authorized to award,
“ order that such Soldier shall be imprisoned
“ for any period not exceeding *One Hundred*
“ *and Sixty-eight* Hours, with or without Hard
“ Labour, or with or without Solitary Confine-
“ ment, as the said Commanding Officer may
“ may think fit; and any Soldier who shall
“ have absented himself, as aforesaid, may, in
“ addition to or instead of such Imprisonment
“ or other punishment which the Commanding
“ Officer has authority to inflict, be further de-
“ prived, by order of his Commanding Officer,
“ of his Pay for the day or days of such ab-
“ sence.”

50th Arti-
cle of War.

Any Soldier ordered by his Commanding Officer to suffer Imprisonment or Deprivation of Pay, shall, if he so request, have a right to be tried by a Court Martial for his offence, instead

of submitting to such Imprisonment or Deprivation.

From amongst the different crimes and offences enumerated in the Articles of War, and which are punishable by a General or District Court Martial, the following have been selected, as calling for more than ordinary consideration and attention previous to submitting them to this last-mentioned tribunal. Charges have been framed calculated to meet each offence, and will be found, with the penalties attaching thereto, in the Appendix:—

Crimes.	Appendix, No.
Mutiny,	1
Striking, using, or offering violence to a Superior Officer,	2
Striking, using, or offering violence, when confined in a Military Prison, against a Visitor or other his superior Military Officer, . . .	3
Disobeying the lawful command of a Superior Officer,	4
Insubordination,	5
Sleeping on his post, or leaving it before being regularly relieved,	11, 12

The foregoing offences belong more peculiarly to the jurisdiction of *General Courts Martial*. *Mutiny*, as already stated (*except on the Line of March*), is never tried by an inferior tribunal; but the other crimes mentioned, if attended by

circumstances of a palliating nature, are sometimes investigated by a District Court Martial, at the discretion of the General or other Officer commanding the Brigade, District, or Garrison, under the 138th Article of War.

The following crimes are *strictly* cognizable by *District* Courts Martial, but may, with the exception always of "Desertion" and "Disgraceful Conduct" (which offences have distinct penalties attached to them, in the power only of General or District Courts Martial to award), as also in cases of Maiming by Accident, be tried by a *Regimental* Court Martial at the discretion of the General or other Officer commanding the Brigade, District, or Garrison, under the 138th Article of War:—

Crimes.	Appendix, No.
Desertion,	6
Advising or persuading others to desert, . . .	7
Fraudulent Confession of Desertion,	8
Leaving Guard or Picquet,	13
Breaking Arrest, or escaping from Confinement, .	14
Disgraceful Conduct,	23
Maiming,	23
Refusing assistance to a Magistrate in the apprehension of Military Persons accused of Civil Crimes,	29

In the disposal of those offences which are not *specifically named* in the Articles of War,

105th Ar-
ticle of
War.

but which, "*from being to the Prejudice of good order and Military Discipline,*" fall within the provisions of the 105th Article, Officers commanding Corps and Depots should govern themselves entirely by the nature and degree of the offence : bearing in mind always the expediency of having recourse to that description of tribunal which is vested with the power of awarding an extent of punishment adequate to the character and magnitude of the offence committed.

" *Insubordinate and outrageous conduct towards a Superior Officer ;*"

" *Irregular Conduct on Escort Duty ;*"

" *Obstructing and assaulting the Police in the execution of their duty ;*"

" *Striking a Sentinel ;*"

" *Soldiers permitting a Non-Commissioned Officer to be assaulted by Civilians without affording him any aid or assistance ;*"

and

" *Writing an Anonymous Letter, imputing improper conduct and motives to his Commanding (or other) Officer, or Non-Commissioned Officer, in the discharge of his duty,*"

105th Ar-
ticle of
War.

are crimes which may be considered as falling within the provisions of the 105th Article of War. They are of too serious a nature for the

investigation of a *Regimental* Court Martial, and are generally disposed of by a higher tribunal. Indeed, the first of these offences is almost invariably submitted to the cognizance of a *General* Court Martial, except when committed on the Line of March, for which an express provision is made by the 135th Article of War, already referred to.

Charges have been framed to meet each supposed case, and, with the penalties attaching thereto, will be found in the Appendix, under the following heads :—

Crimes.	Appendix, No.
Irregular conduct on Escort Duty,	33
Obstructing and assaulting the Police in the Execution of their Duty,	34
Forcing or Striking a Sentinel,	35
Soldiers permitting a Non-Commissioned Officer to be assaulted by Civilians without affording him any aid or assistance,	36
Writing an Anonymous Letter, imputing improper conduct and motives to his Commanding (or other) Officer or Non-Commissioned Officer in the discharge of his Duty,	37
Improper conduct towards a Superior,	47

Particular care should be taken that the proceedings of all Courts Martial are drawn up with accuracy, and that they are perfectly intelligible throughout. The form and manner

of receiving and recording the testimony of the several witnesses examined before the Court are points of great importance. In order, therefore, to facilitate the duties of the Members in this respect, a sketch of the proceedings of a Court Martial is given in Appendix D. An adherence to the form therein laid down will, upon a general principle, it is hoped, be found calculated to meet the object desired.

Page 223,
Art. 16.

It is especially enjoined by the Queen's Regulations that care be taken that the Minutes of the proceedings of all Courts Martial be fairly and accurately recorded, in a clear and legible hand,* *without erasures or interlineations*—the pages of the Minutes being numbered, and the sheets, when more than one, stitched together.

Should a Prisoner be desirous of calling witnesses to his character, the rule of proceeding is this :—

All the evidence on the part of the prosecution having been first examined, and the Prosecutor's case closed, the Prisoner is then at liberty, if he thinks proper, to make his defence,

* The whole of the Minutes of the proceedings of every District, Garrison, Regimental, or Detachment Court Martial should be in the handwriting of some one of the Officers of the Court; when there are erasures or interlineations, the President should affix his initials.

and to call witnesses, first to meet the charge, and, secondly, to speak to his character.

All these witnesses must be examined upon oath.

13th
Clause,
Mutiny
Act,
153rd Article of War.

When the whole of the evidence shall have been gone into, both on the part of the prosecution and the defence, and recorded in the Minutes according to the order in which it has been received, the Court is cleared for the purpose of deciding upon the guilt or innocence of the Prisoner. In this stage of the proceedings it is required that the Minutes of the evidence should be read over by one of the Members before an opinion is given.

If the Prisoner be found guilty, the Court proceeds to receive evidence of former convictions, and previous general character. This examination into former convictions and general character enables the Court to mete out punishment so as to satisfy the ends of justice with greater precision.

After any person subject to these Articles has been found guilty by Court Martial of any Offence, the Court may, for the purpose of assisting their discretion in awarding Punishment for the Offence, receive Evidence of former Convictions against the Prisoner, whether Convictions by Court Martial or Convictions by a

154th Article of War.

Court of Ordinary Criminal Jurisdiction. The Court, however, shall not in any case award any other Punishment than may be legally awarded for the particular Offence of which the Prisoner has been found guilty.

155th Article of War.

“Any previous Conviction by Court Martial may be proved by the entry thereof in the Court Martial Book, or Defaulters’ Book, or by Certified Copy of such entry.”

156th Article of War.

“Any previous Conviction by a Court of Ordinary Criminal Jurisdiction may be proved by Production of the Certificate provided for in the 39th Section of the Mutiny Act, or by Certified Copy of such Certificate, or by the Entry of such Conviction in the Court Martial Book, or Defaulters’ Book, or by Certified Copy of such entry. No entry of a Conviction by a Court of ordinary Criminal Jurisdiction shall be made in the Court Martial Book, or Defaulters’ Book, except upon such Certificate as aforesaid.”

Especial care should be taken that the Prisoner is furnished a reasonable time before trial with a copy of the charges and a list of the witnesses for the prosecution.

When the Prisoner is with his Regiment, and the Court Martial for his trial is intended to be assembled at the Head Quarters of it, he

should be warned for Trial by the Adjutant, or acting Adjutant.

In those cases where it may be necessary to march a Prisoner to a distance from his Regiment for trial, he should be warned by the individual witness who may have been selected to depose to his previous convictions, and general character.

If the Prisoner should happen to be already absent from his Corps, and on the spot where the Court is to be assembled for his trial, the Officer commanding will appoint a proper person for this duty.

The President of any Court Martial, other than a General Court Martial, stands in the place of an officiating Judge Advocate. It therefore falls within his province to take care that the Prisoner has had notice of the intention to bring him to trial.

As it is of importance, however, that the Prisoner, when brought before the Court, should stand there free from all suspicion of previous guilt of every kind, it is highly desirable that the question, whether he has any previous convictions, should be put in such a general way as to leave the Court ignorant of the existence of any such convictions *until after the finding*.

After the Prisoner is found guilty of the

offence for which he is under trial, the Court is required to obtain, by a *direct* question, satisfactory proof that the Prisoner has previous convictions against him.

The *general* character of a Prisoner is that only which can properly be inquired into from the individual in the Regiment who is able, from his general knowledge of the Prisoner, to depose to it; but the *reasons* upon which he *founds* the opinion regarding such general character cannot be legally gone into. The witness selected to depose to this point may, however, if it should be necessary, in order to *refresh his memory*, refer to the Defaulters' Book; but he is not at liberty to read it to the Court; nor is it to be read by them, except in cases of "*Habitual Drunkenness*," for which an express provision is made by the 78th Article of War.

The form and manner of receiving and recording the evidence adduced in respect to the previous convictions and general character of a Prisoner, will be found in the sketch of proceedings laid down in the Appendix, and already referred to.

Queen's
Regula-
tions, page
223, Art.
17.

After the Court shall have decided upon and recorded their Sentence, the proceedings are to be dated and signed by the President, who will then forward them to the General

or other Officer vested with authority to confirm the sentence.

In the event of the proceedings being confirmed by the General or other Officer commanding the District, they are forwarded by him to the Officer commanding the Corps to which the Prisoner belongs or, if there should happen to be other Corps, or detachments belonging to different Regiments, at the Station, then to the Senior Officer on the spot, with a view to the result of the trial being promulgated to the troops in the Garrison, according to the usage of the Service, and in order that the punishment awarded may be carried into effect, or otherwise, as the confirming Officer may have been pleased to direct.

When the proceedings shall have been duly promulgated, the charges, finding, and sentence are to be recorded in the Regimental Books, and the proceedings returned to the President, to be by him forwarded without delay to the Right Honourable the Judge Advocate General, *London*, conformably to the provisions of the Mutiny Act.*

Queen's
Regula-
tions, page
224, Para.
19.

* The proceedings of *all* District and Garrison Courts Martial, whether approved or *not*, should be recorded in

Cases will sometimes occur where the General or other Officer commanding the District may find himself obliged to order a Court to revise their proceedings, upon grounds which, in his judgment, appear to render such a measure expedient, either from the finding being in his opinion at variance with, and in contradiction to the evidence adduced, or from the punishment awarded not being commensurate with the offence charged, or from any other cause resting in his discretion.

On all occasions the orders for the reassembly of the Court are conveyed to the Senior Officer on the spot, who directs their reassembly accordingly, and at the same time communicates to the President such instructions as he may have received upon the subject of the revision of the proceedings, and which may be deemed necessary for the guidance of the Court in the reconsideration of the finding or sentence, and the order for the reassembly

the Regimental Books, and transmitted to the Judge Advocate General through the Deputy Judge Advocate of the District, in accordance with the instructions contained in the enclosure of the Horse Guards' Letter dated *16th June, 1865*.

of the Court must be attached to and form part of the proceedings.

It must be here observed, that the proceedings can only be revised once, and that *no additional evidence with reference to the matter which forms the subject of reconsideration can be received by the Court on such revision*; this last point is one which should be most carefully attended to by any Court Martial ordered to revise their Proceedings. But in the event of a Prisoner having in the first instance been found *Not Guilty*, and afterwards, upon revision, found Guilty, it would be competent to the Court to receive evidence of previous convictions against him, and of his general character, &c.

14th
Clause,
Mutiny
Act.

Upon a patient and attentive reconsideration of the whole proceedings, it remains entirely with the Court to determine whether or not to make any alteration in the original finding or sentence. But it should be borne in mind always, that a power is vested in the hands of the confirming Officer to *withhold his approval* from the proceedings, should he think fit so to do, and to remit, at his discretion, the whole or any portion of the punishment to which the Prisoner might have been adjudged.

This is a material consideration, and will often influence the Court to alter or depart from

their original sentence (where the Members can do so conscientiously), rather than risk a total defeat of justice, by persisting in a decision which the Court know the General commanding the District or other Superior Officer cannot approve.

REGIMENTAL COURTS MARTIAL.*

THE Commissioned Officers of every Regiment, Battalion, or Regimental Depot, commanded by a Field Officer, or of a detachment of Ordnance Corps commanded by an Officer not under the rank of Captain, may by the appointment of their Colonel or Commanding Officer, without other authority than the Articles of War, hold *Regimental* Courts Martial, consisting of not less than five Officers,† unless it be found impracticable to assemble that number, when three may be sufficient.

10th
Clause,
Mutiny
Act.
112th Ar-
ticle of
War.

* The *form* of proceedings laid down in the Appendix for *District* Courts Martial applies equally to *Regimental* and *Detachment* Courts Martial in all respects, and should be always adhered to.

† USUAL DETAIL.

Captain _____ President.

Lieutenant _____ { *members* } Lieutenant _____

Ensign _____ { } Ensign _____

114th Article of War.

The President must not be under the rank of Captain, excepting the trial shall take place *on the Line of March*, or on board any Transport Ship, Convict Ship, Merchant Vessel, or Troop Ship not in commission, or at any place where a Captain cannot be had; nor in any case is the Commanding Officer of the Regiment, Battalion, or Regimental Depot to which the offender belongs, to be a Member of the Court.

112th Article of War.

A Regimental Court Martial,* constituted in the manner above mentioned is empowered to inquire into and to decide upon such disputes or criminal matters as may come before it, and by a majority of votes to sentence the offender to—

10th and 22nd Clauses, Mutiny Act.
129th Article of War.

Corporal Punishment not exceeding 50 Lashes;
or—

Imprisonment, with or without hard labour, for any period not exceeding forty-two days; and may also direct that such offender be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding fourteen days at a time, with an interval between

* No sentence of Corporal Punishment awarded by a Regimental Court Martial can be inflicted in time of Peace, without the special sanction of the General or other Officer Commanding the District or Station. See Appendix H.

them of not less duration than such period of Solitary Confinement. Should the Court direct the imprisonment to be solitary only, the period must in no case exceed *fourteen days*.

In case of the award of *Corporal Punishment*, the confirming Officer may, if he think proper, commute such punishment to imprisonment, either solitary or with or without hard labour, not exceeding forty-two days, or may mitigate it to imprisonment, either solitary or with or without hard labour, for any period not exceeding twenty days, and to Corporal Punishment, to be inflicted in the Prison, not exceeding twenty-five lashes, and in no case must the Solitary Confinement under a commuted sentence exceed *seven days* at a time.

120th Article of War.

24th Clause, Mutiny Act.
27th Clause, Mutiny Act.

The Court, in addition to either of the descriptions of punishment before mentioned, may further adjudge the offender to be put under stoppages, to make good any loss or damage occasioned by his neglect or misconduct, as already explained in allusion to the same subject, under the head of "District Courts Martial," pages 12, 13, 14, 15.

130th Article of War.

Any Soldier convicted by a *Regimental* or Detachment Court Martial of Habitual Drunkenness, in having been Drunk *four times* within *three hundred and sixty-five days*, or *twice* Drunk

78th Article of War.

when on or for duty, or on Parade or on the Line of March,* may be deprived by such Court of One Penny a day of his Pay, for any period *not exceeding one hundred and sixty-eight days*; and in addition to any such Punishment, the Court may (if it shall think fit) sentence such offender to any other punishment which the Court may be competent to award. In any charge of Habitual Drunkenness the place and date of the last instance of Drunkenness shall be specified, and also the number of the previous instances of Drunkenness imputed, and the period within which they occurred, but the dates and places of such previous instances shall not be specified. Such previous instances shall be proved by reference to the Defaulters' Book, or by satisfactory evidence of the entries therein.

Any Soldier who within one hundred and sixty-eight days after a conviction for Habitual Drunkenness shall be Drunk twice, or shall be

77th and
78th Arti-
cles of War.

* A soldier is to be considered "on the Line of March," while he is on the route from one place to another, from the time of his starting until he arrives at the place of his destination, and he is considered to be so, whether he is at a halting place, or is actually on the move; and the same construction applies, whether the troops actually march or are conveyed in Railway Trains, Canal Boats, or otherwise.

once Drunk when on or for duty or on Parade, or on the Line of March, shall, on proof thereof, be again convicted of Habitual Drunkenness, and shall, over and above any former forfeiture or forfeitures of Pay, be further deprived of One Penny a day of his Pay for any period *not exceeding one hundred and sixty-eight days* ; and in addition to any such punishment, the Court may sentence such offender to any other punishment which the Court may be competent to award.

Any Court Martial may also sentence any Soldier for being Drunk, when on any duty not under arms, or for Duty or on Parade, or on the Line of March, to be deprived of a Penny a day of his *Pay*, for any period not exceeding thirty days, in addition to any other punishment which such Court may be competent to award. *Vide* Appendix 19 and 20. 77th Article of War.

But in no case shall any Soldier, by reason of being Drunk on or for Duty or on Parade, or on the Line of March, or by reason of Habitual Drunkenness, be at any one time placed under forfeitures of Pay, exceeding in the whole the sum of *three pence per diem* ; such Soldier, nevertheless, being again convicted of being Drunk on or for duty, or on Parade, or on the Line of March, or of Habitual Drunkenness, 78th Article of War.

may be sentenced to any other Punishment which the Court is competent to award.

It is considered unnecessary here to enter more fully into this subject, as the several points connected with "Habitual Drunkenness," which require particular notice, have already been observed upon under the head of "*District Courts Martial*," pages 35 to 43.

129th Article of War.

No sentence of a Regimental Court Martial can be executed until the Commanding Officer shall have confirmed the same.

The different crimes and offences cognizable by Regimental Courts Martial, and which may be tried at the discretion of the Officer commanding a Corps of Depot Battalion, without the necessity of making application to the General Officer commanding the District or other Superior Officer, for permission so to do, are distinctly specified in the Articles of War.

Out of this class of offences, the following have been selected as more peculiarly liable to occur amongst Soldiers ; and Forms of Charges, calculated to meet each case, have been framed, and will be found in the Appendix :—

Appendix, No.

Habitual Drunkenness,	21
A Non-Commissioned Officer commanding a Guard, Picquet, or Patrol suffering a Prisoner committed to his charge to escape,	16

Appendix, No.

Neglecting to obey any Garrison or other orders on the part of Non-Commissioned Officers,	17
Neglecting to obey any Garrison or other orders on the part of Private Soldiers,	18
Drunk when on any duty under arms, or when on any duty not under arms, or for Duty or on Parade, or on the Line of March,	19, 20
Absence without leave,	9
Absence from Parade,	15
Making away with, spoiling, or damaging Arms, Clothing, Instruments, Equipments, Accoutrements, or Regimental Necessaries,	31
Dragoons ill-treating Horses,	32
Non-commissioned Officers striking or ill-treating a Soldier,	30

In the disposal of those *minor* offences not *specifically* named, but falling within the provisions of the 105th Article of War, as being to the prejudice of good order and military discipline, Commanding Officers of Corps and Depots are guided by their own discretion, according to the circumstances of the case.

The number of crimes comprehended in the above-mentioned Articles of War, to the commission of which Soldiers are liable, renders it difficult to lay down precise Forms of Charges for every emergency.

The following offences, however, have been selected, and for these, Forms of Charges have

been framed, and are annexed, subject always of course to *alteration* or *modification* according to circumstances:—

Appendix, No.

A Non-Commissioned Officer allowing a Prisoner in his Charge to get drunk,	38
A Sentry neglecting his duty, by permitting a Prisoner to escape from the Guard-room, . .	39
Persuading or endeavouring to persuade a Sentry to disobey the orders of his Post, . . .	40
A Sentry disobeying the orders of his Post, . .	41
Offering a bribe to a Sentry,	42
A Sentry receiving a bribe,	43
A Sentry delivering over the charge of his Post to another Soldier, without a Non-Commissioned Officer being present at the relief,* . .	44
A Soldier relieving another on Sentry, without being regularly posted by a Non-Commissioned Officer of the Guard,*	45
A Corporal of a Guard permitting a Soldier to relieve another on Sentry, without being himself* present at the relief,	46
Absence without leave from Tattoo,	10
Drunk and Riotous in the Streets or Barracks,	48
Drunk and Riotous in the Street, and drawing his Bayonet,	
Improper conduct to a Non-Commissioned Officer,	49

* These offences, when committed on other than an ordinary Barrack Guard, are generally investigated by a District or Garrison Court Martial.

Appendix, No.

Falsely accusing a Non-Commissioned Officer of being drunk,	50
Breaking out of Barracks after hours,	51
Ditto, when confined to Barracks,	52
A Soldier striking a Comrade,	53
Soldiers fighting and creating a disturbance in Barracks,	54
Telling a falsehood to screen a Comrade, . .	55
Attempting to deceive Captain or Commanding Officer of the Troop or Company at an in- spection of necessities,	56
Aiding and abetting in the attempt,	57
Preferring frivolous and unfounded complaints as to the quality of provisions or necessities,	58
Firing off a Musket loaded with ball in his Barrack-room,	59

After the sentence of a Regimental Court Martial shall have been carried into effect, the proceedings should be carefully entered in the Regimental Court-Martial Book, and the original Minutes preserved with the records of the Corps, which may be done by docketing them, or by fixing them, by means of screws, into the Court-Martial Book.

Queen's Re-
gulations,
Page 391.
Para. 69.

DETACHMENT COURTS MARTIAL, HAVING THE POWER OF REGIMENTAL COURTS MARTIAL.

10th and
11th
Clauses,
Mutiny
Act.
129th Ar-
ticle of
War.

THE Commissioned Officers of any Detachment or Portion of Troops which may at any time be serving in any part of her Majesty's dominions or elsewhere, or may be embarked on board a Transport Ship, Convict Ship, Merchant Vessel, or Troop Ship not in Commission, although such Detachment or Portion of Troops shall consist of men from different Regiments, may, by the appointment of the Senior Officer in command of the Detachment, District, Station, Garrison, Barrack, Island, or Colony, provided he be not under the rank of a Captain, or in case such Troops shall be on board any Transport Ship, Convict Ship, Merchant Vessel, or Troop Ship not in Commission, may by the appointment of the Senior Officer on board, whatever be his rank, without any other authority than the Articles of War, hold *Detachment Courts Martial*, within her Majesty's dominions or elsewhere, consisting of not less than five

Officers (unless it be found impracticable to assemble that number, when three may be sufficient), and may inquire into such disputes or criminal matters as may come before them, according to the rules and limitations observed by Regimental Courts Martial; but no sentence can be executed until the Superior Officer on the spot, *not being a member of the Court*, shall have confirmed the same.

Detachment Courts Martial of the foregoing description being vested *with precisely the same powers as Regimental Courts Martial* in the disposal of crimes falling within their jurisdiction, it is not considered necessary here to offer any further remark upon them than to observe that they should be regulated by the same principles which govern the proceedings of other Military Courts, and which have already been laid down in the preceding pages.

The proceedings of every Detachment Court Martial, like those of a Regimental one, are required by the Queen's Regulations to be entered in the Regimental Court Martial Book; as soon, therefore, as the finding and sentence shall have been promulgated, the Confirming Officer should forward the proceedings to the Officer commanding the Corps to which the Prisoner belongs or is attached.

Queen's
Regula-
tions, Page
391, Para.
69.

135th Ar-
ticle of
War.

Whenever the Officer commanding a Detachment on *board Ship* shall find it necessary to have recourse to a Court Martial, it is suggested that the proceedings of the Court be carefully preserved, and a full report of the case made by the Confirming Officer to superior Military Authority, either before or immediately on Disembarkation, in order that the trial may be duly recorded in the Regimental Books, and noticed in the next Monthly Return of Courts Martial sent to the Adjutant-General of the Forces.

107th,
117th, and
124th Ar-
ticles of
War.

It may not be superfluous in this place to observe, that the Mutiny Act and Articles of War regulate the Jurisdiction, while they confer extraordinary powers on Detachment *General* Courts Martial assembled without the Queen's dominions.

160th Ar-
ticle of
War.

All Trials by Courts Martial must take place between Eight o'clock in the morning and Four in the afternoon, *except in cases which require an immediate example*, and except also in the East Indies, where such trials may take place between the hours of *Six* in the morning, and *Four* in the afternoon.

DRUM-HEAD COURTS MARTIAL.

COURTS MARTIAL, commonly called "*Drum-head Courts Martial*," were formerly often held where an example *on the spot* was considered necessary ; but they are now very seldom resorted to. They are, in point of fact, Regimental or Detachment Courts Martial, and in cases of extreme emergency may be still held in the Field or on the Line of March—the responsibility, of course, resting in the Commanding Officer that a necessity existed for adopting such a summary proceeding. The Members of all such Courts Martial must be duly *sworn*, and must *strictly* observe the formalities of any other Court Martial. Drum-head Courts Martial, however, are not restricted as to the hours of sitting. Their proceedings may be carried on at any time, under the 160th Article of War, provided it shall be manifest that the case is *one which requires an immediate example*. 160th Article of War.

It will always be borne in mind that the General Regulations of the Army direct that

Page 225,
Art. 26.

all Courts Martial, before awarding any description of Punishment, should ascertain, in reference to the Prisoner's state of health, that the Sentence can be duly carried into effect. A form of Certificate (subject, of course, to modification, according to circumstances) will be found at the foot of page 94.

If the Certificate states that the Prisoner is unable to undergo labour requiring much bodily exertions, Courts should nevertheless award "Imprisonment, *with such labour as, in the opinion of the Medical Officer of the Prison, the Prisoner may be equal to.*"

WITNESSES.

THE 13th Clause of the Mutiny Act provides ^{13th}
“that all General and other Courts Martial ^{Clause,}
“shall administer an Oath to every Witness ^{Mutiny}
“or other Person who shall be examined before ^{Act.}
“such Court in any matter relating to any pro-
“ceeding before the same ;—and every Person,
“as well Civil as Military, who may be required
“to give or produce evidence before a Court.
“Martial shall, in the case of General Courts
“Martial, be summoned by the Judge Advo-
“cate General, or his Deputy, or the Person
“officiating as Judge Advocate; and in the
“case of all other Courts Martial, by the Pre-
“sident of the Court;—and all Persons so
“summoned and attending as Witnesses before
“any Court Martial shall, during their necessary
“attendance in or on such Courts, and in going
“to and returning from the same, be privileged
“from arrest, and shall, if unduly arrested, be
“discharged by the Court out of which the
“Writ or Process issued by which such Wit-
“ness was arrested ;—or, if such Court be not

“sitting, then by any Judge of the Superior
“Courts of *Westminster* or *Dublin*, or of the
“Court of Session in *Scotland*, or of the Courts of
“Law in the *East* or *West Indies*, or elsewhere,
“according as the case shall require, upon its
“being made to appear to such Court or Judge,
“by any affidavit in a summary way, that such
“Witness was arrested in going to or attending
“upon or returning from such Court Martial;
“—and all Witnesses so duly summoned as
“aforesaid who shall not attend on such Courts,
“or attending shall refuse to be sworn, or being
“sworn shall refuse to give evidence, or not
“produce the documents under their power or
“control required to be produced by them, or
“to answer all such questions as the Court may
“legally demand of them, shall be liable to be
“attached in the Court of Queen’s Bench in
“*London* or *Dublin*, or in the Court of Session,
“or Sheriff or Stewart Courts in *Scotland*, or
“in Courts of Law in the *East* or *West Indies*,
“or in any of her Majesty’s Colonies, Garri-
“sons, or Dominions in *Europe* or elsewhere,
“respectively, upon complaint made, in like
“manner as if such Witness, after having been
“duly summoned or subpœnaed, had neglected
“to attend upon a Trial in any proceeding in
“the Court in which such complaint shall be

“made. Provided always, that nothing in this
“act contained shall be construed to render
“an Oath necessary in any case where by
“Law a solemn affirmation may be made in-
“stead thereof.”

It will be understood that, although the provision contained in the above recited clause (enacted, it is presumed, as an additional Punishment to secure the efficiency of Military Courts) includes *Military* Witnesses, still that provision is not to be construed as merging the Military Offence into Civil Misdemeanor. Any Military Witness, therefore, who, after being ordered by Superior Military Authority to attend as a witness on a Court Martial, shall fail to do so, or having attended shall refuse to be sworn, or being sworn shall refuse to give evidence, or to answer such questions as the Court may legally demand of him, will be liable to be brought to trial by Court Martial. Forms of Charges calculated to meet each case will be found in the Appendix, Nos. 60, 61, 62.

There is no specific *Form* of Summons for Civil Witnesses laid down either in the Mutiny Act, or Articles of War; but it is essential that this document, in whatever terms prepared, should be drawn up with the greatest care and precision, otherwise the object of the Legis-

lature in providing a penalty for the non-observance of the Summons will be wholly defeated.

In Appendix E. a Form of Summons is introduced, which may be found applicable in most cases.

The President of the Court Martial, before which the Civilian is required to appear, having prepared his Summons, and affixed his signature thereto, his next course is to provide for its due service upon the individual named in it.

The Civil Authorities are always ready to afford their assistance and co-operation on such occasions. It is only necessary, therefore, whenever the emergency exists, for the President to put himself in communication with the nearest Magistrate or Chief of Police ; but this duty of serving a Summons upon a Civil Witness may generally be performed with equal effect through the military authorities ; and when this course is pursued, the following suggestions may probably assist the object.

In the first place, care should always be taken that the Civilian receives reasonable notice of the day on which it is intended that the Court shall assemble, with reference to the distance he has to travel.

A steady Non-Commissioned Officer should be selected for this duty. He should be put in possession of the *original* Summons, as also a *copy* of it, which copy he will *serve* upon the party named, merely producing at the same time the original.

The Non-Commissioned Officer should be very exact as to the *hour*, the *day of the month*, and *place* of the service of the Summons, making the President of the Court acquainted with these particulars, and noting the same in ink on the back of the original, which he will deliver to the President, and hold himself prepared to make an affidavit of his having served the Summons, should the person summoned fail to attend on the Court, or attending should refuse to be sworn, or being sworn should refuse to give evidence, or to answer all such questions as the Court may legally put to him.

In the first of these assumed cases, namely, "a failure on the part of the person summoned to attend the Court," the President will immediately communicate the fact to the Officer who convened the Court, with a view to such ulterior measures being adopted for enforcing against the offending party the penalties prescribed by law, as the authorities at Head Quarters may deem expedient to direct.

If a Civil Witness in attendance shall refuse to be sworn, or being sworn shall refuse to give evidence, or to answer all such questions as the Court may legally put to him, it will no doubt occur to the Court forcibly to impress upon the party the serious consequences to which he will be rendered liable if he persists in a line of conduct so prejudicial to the ends of justice.

If, after this caution, the Witness's determination remains unchanged, the fact should be recorded on the face of the proceedings, and a distinct report of all the circumstances should be made by the President to the Officer who convened the Court, with a view to the pleasure of the superior authorities at Head Quarters being taken as to the course to be adopted towards the offending party.

Claims for the expense of Witnesses, whether Civilian or Military, in attending Courts Martial, must be clearly stated, and forwarded with the recommendation of the President of the Court, so far as he considers the claim to be just and reasonable, for the decision of the Secretary of State for War. The actual and necessary period of the allowance must be distinctly specified in every case. See Article 18 of "Explanatory Directions," annexed to the Royal Warrant of the 23rd December, 1857.

In *Ireland* the applications are made through the President to the "Military Secretary;" and, if regular, are submitted by the General Officer Commanding the Forces to the Secretary of State for War.

COURTS OF INQUIRY.

THE 13th Article of War provides, that, if a Non-Commissioned Officer or Soldier shall think himself wronged in any matter affecting his pay or clothing by his Captain or other Officer commanding the Troop or Company to which he belongs, he is to complain thereof to the Commanding Officer of the Regiment, who is required to summon a *Regimental* Court of Inquiry, for the purpose of determining whether such complaint is just; from the decision of which Court of Inquiry either party may, if he thinks himself still aggrieved, appeal to a *General* Court Martial.

There is no regulation fixing the number or rank of Officers to compose a Court of Inquiry.

This must obviously depend upon the nature and character of the circumstances which form the subject-matter for investigation.

In *ordinary* cases of *Regimental* Inquiry, one Captain and two subalterns constitute the Court. On other occasions, a Field Officer (or second in command) and two Captains are employed

upon this duty, at the discretion of the immediate Commanding Officer.

In cases of a more serious nature, calling for the interference of superior authority, the Officer commanding should furnish the Major-General, or Senior Officer of the District (through the prescribed channel of communication), with an outline of the circumstances, accompanied by any observations which appear necessary for his information. He will thus be enabled to decide at once upon the course to pursue ; either by convening, of his own authority, a Court of Inquiry, consisting of three (or even five) Field Officers ; or by referring the whole case to Head Quarters, as in his judgment shall seem most proper.

Whenever a Court of Inquiry is ordered to assemble, either by the Commanding Officer of a Corps, or the Major-General or Senior Officer of a District, it is always desirable that specific instructions should be conveyed to the President for the guidance of the Court. And, above all, it should be distinctly stated, whether they are to give an opinion on the case, or merely to confine themselves to a record of the facts elicited from the different Witnesses produced and examined.

The Court being assembled pursuant to or-

der, the examination of the Witnesses is proceeded with, and the matter before the Court investigated according to the instructions communicated to the President.

A Form of Proceedings applicable to the generality of occasions will be found in Appendix F.

157th Ar-
ticle of
War.

It will be observed that Members of Courts of Inquiry are *not* sworn, neither are the Witnesses,* except in the case of a Soldier illegally absent. In other respects the proceedings assimilate as nearly as possible to Courts Martial, both as regards the examination and cross-examination of Witnesses, as well as the mode of recording their testimony on the Minutes, which should be prepared with the greatest care and accuracy.

The minutes of the proceedings, when closed, are signed by the President, and also by the Members, after which they are forwarded by the President to the Superior Officer who convened the Court, observing always the regular channel of communication.

If the superior authority should be satisfied

* Witnesses should be cautioned by the President, that, although not on oath, their evidence is liable to be sworn to in the event of future judicial proceedings.

that the Court have carried their investigation to the fullest extent in their power, and have furnished all the information necessary to a clear understanding of the subject, it only remains to approve the proceeding, and to dissolve the Court, directing the Members to return to their duty.

On the other hand, if the Court should appear to have omitted any point requiring notice, or that they should not have carried their investigation generally to the extent desired, they should be ordered to reassemble with a view to the deficiency being supplied; and that deficiency should be explained by the convening authority in terms as clear as the original instructions under which the Court was first assembled.

It may be material in this place to observe, that a Court of Inquiry may be *reassembled as often as may be found necessary*; and further, that new evidence may be received and recorded on every such occasion.

If there be an accused party, he should have notice of the sitting of the Court, and of the object of the inquiry, and be permitted, but not compelled, to be present during the examination of the Witnesses, and also be permitted to put any questions he may think proper, pro-

vided they are such as should be admitted by a Court Martial.

It will be understood that, although the above right is conceded to the accused, it is quite optional on his part to abstain from putting any questions to Witnesses, either *on examination in chief, or on cross-examination*. And, further, the accused may respectfully decline making any statement to the Court touching his alleged misconduct, should he apprehend that such a course would operate against him, in the event of the institution of any ulterior judicial proceedings.

Whenever a Court of Inquiry involves a question of discipline, it must be remembered that such Court of Inquiry is always liable to lead to a Court Martial; and as the Officers employed on the former Court cannot sit upon the latter, it is essential that a sufficient number of Officers should remain upon the spot to compose a District Court Martial, independent of those required for the Court of Inquiry (presuming always the case to be of that serious nature as to call for the interference of the superior Officer of the District); and in all cases where there is a deficiency, it will be desirable to refrain from ordering a Court of Inquiry till the pleasure of the proper authority is received on

a statement or summary of the evidence taken before the Commanding Officer and Adjutant, and forwarded for that purpose.

By this means a sufficient number of Officers will be available for judicial proceedings, which could not otherwise be entered upon without calling in assistance, possibly from a distant quarter, at an expense to the public, as well as at an inconvenience to the Service.



APPENDIX.

1

1

1

1

APPENDIX.

A.

FORM REFERRED TO IN PAGE 12.*

REGIMENT,

Head Quarters, 18

COURT MARTIAL.

APPLICATION FOR A

SIR,—I have the honour to submit a charge [*or charges*] against No. A. B., of the Regiment [*or Depot*] under my command, and request you will obtain the sanction of the Major-General [*or other officer*] commanding the Division that a Court Martial may be assembled for his trial at

The Prisoner is now at

The Witnesses are at

I have the honour to be, Sir,

Your most obedient humble Servant,

Signature of
Commanding Officer, }
The Assistant Adjutant-General,
[*or Brigade-Major.*]

CHARGE OR CHARGES.

[Here insert the charge or charges with accuracy and precision both as to time, place, and circumstances, but without entering more into detail than is absolutely necessary for characterizing the offence.]

SURGEON'S CERTIFICATE.†

I certify that No. A. B., of the Regiment, is in a state of health, and to undergo Corporal Punishment or Imprisonment, solitary or otherwise, and with or without hard labour; and that his present appearance and previous medical history both justify the belief that hard labour employment will neither be likely to originate nor to reproduce disease of any description. The prisoner is [*or is not, as the case may be*] marked with the letter D.

Signature of the Surgeon }
or Assistant Surgeon.

* This form is equally applicable to General Courts Martial.

† The Certificates of Health attached to the proceedings of Courts Martial must invariably be in the handwriting of the Medical Officer by whom the prisoners are examined, and it must always be stated whether or not the prisoners are legibly marked with the letter D.

APPENDIX.

97

Extract from the Court Martial Book of previous Con-
victions against No. A. B.

Date of Trial.	Descrip- tion of Court.	Crime.	Sentence, and by whom Confirmed.	Punishment.	
				Inflicted.	Remitted.

Extract from the Defaulters' Book.

Date and Place of Crime.	Crime.	Punishment and Remarks.

N. B.—Acts of Drunkenness to be inserted in Red Ink.

B.

FORM OF APPLICATION.

(Referred to in page 45.)

18

SIR,—I request you will do me the honour to submit to the Major-General commanding the Division [*or the Superior Officer, as the case may be*], the annexed charge [*or charges*] against No. A. B., of the Regiment under my command, which, with the Major-General's sanction, I would wish to bring under the cognizance of a District [*or Regimental, as the case may be*] Court Martial.

It will be perceived that the crime laid to the Prisoner's charge is in *strictness* cognizable only by a General [*or District, as the case may be*] Court Martial; but, as the offence has not been attended with any circumstances of an aggravated nature, and as the man's previous general character and conduct have been good, I venture to express the hope that the ends of discipline will in this instance be equally attained by bringing the Prisoner's conduct under the investigation of the inferior tribunal above mentioned.

I have the honour to be, &c.,

Signature of
Officer Commanding, }

The Assistant Adjutant-General,
or Brigade-Major.

B.—in continuation.

CHARGE AGAINST No. A. B., REGIMENT.

Proposed for investigation by a *District or Regimental*
Court Martial [*as the case may be*], under the 142nd
Article of War.

The Charge,	} To be insert- ed in the order and according to the Form laid down in pages 95, 96, 97.
Surgeon's Certificate,	
Summary of Evidence,	
Descriptive Return, &c.,	
Details of Officers present,	
Extracts from Courts Martial and	
Defaulters' Books,	

Whenever the permission of a General Officer is obtained to try an offender by an inferior tribunal, care must be taken that the circumstance is duly noticed in the Monthly Return of Courts Martial, as directed by the 140th Article of War.

C.

FORM OF APPLICATION REFERRED TO IN PAGE 28.

RETURN OF MEN OF THE
removal from their present Place of Custody the consent of
in Confinement by Sentence of Courts Martial, for whose
is solicited.

18

Head Quarters.

NAMEs.	When and where tried.	Crime briefly stated.	Description of Court Martial [General, District, or Garrison].	Present Place of Confinement.	Sentence, Term, and Species of Imprisonment awarded.	Date of President's signing the Original Proceedings.	Unexpired Term of Imprisonment, and Nature of it.	REMARKS.

Signature of Commanding Officer.

I consent to the removal of the above-named Men from their present place of Imprisonment, and to their being recommitted to confinement to such other Public Prison or Place of Confinement as the Officer Commanding the Regiment shall appoint, there to undergo the remainder, or any part of their Sentence.

*Signature of the Officer
Commanding the District,
or Confirming Officer.*

D.

REFERRED TO IN PAGE 56.

NOTE.—*Before entering upon the Form of Proceedings of a Court Martial, the Author thinks it desirable to offer the following few remarks upon some points which may possibly be found useful in the course of a trial.*

As regards
the challenge
of Members.
182nd Article
of War.

If the Prisoner objects to the President, such objection, unless disallowed by two-thirds at least of the other Officers appointed to form the Court, and the grounds upon which it is made, must be referred to the decision of the authority by whom the President was appointed. If the Prisoner objects to any Officer other than the President, such objection must be decided by the President and the other Officers appointed to form the Court ; the grounds of the objection offered by the Prisoner, and the decision of the Court thereon, being duly recorded on the Minutes.

Should the objection taken by the Prisoner be overruled, it should also be recorded on what grounds it was so.

Should the objection appear to the Court to be a valid one, it will be for the President to intimate the same to the convening authority, in order that another Officer may be appointed to supply the place of the member objected to.

If a Prisoner states that he has no objection, his answer should be recorded, and his trial proceeded with ; if he *refuses* to reply to the question as to his having any ob-

D.—*in continuation.*

jection, such refusal, being recorded, may be considered by the Court as tantamount to his having *no objection*.

Amongst other legitimate causes of challenge are the following:—"That the Officer objected to had been a member of a Court of Inquiry held to investigate the case; that he had been heard to express a previous opinion as to the Prisoner's guilt, with reference to the *immediate* offences imputed to him; or that, from age, deafness, or other infirmity, he was incompetent to discharge the duties of a member."

It is no valid cause of objection that a member belongs to the Prisoner's Regiment, Troop, or Company: of course, if a member were summoned as a Witness upon the trial, either for the Prosecution or for the Defence, such would be a proper cause of challenge; if, however, he was merely required to depose as to *character*, this objection would be overruled, because he could be sworn to speak to this fact while member of the Court, without interfering with his judicial capacity. In no case would it be proper that the Officer selected to depose to *previous convictions* should be a member of the Court.

Cross-examination of Witnesses by Prisoner.

Every Prisoner, when on trial, has a right to cross-examine the Witnesses against him. If he puts questions before the examination on the part of the Prosecution is concluded, he should be told to wait till his turn arrives. If he puts a question which is manifestly irrelevant, the Court may declare it unfit to be asked or answered; but this power should be sparingly exercised, for it is no light matter to check a Prisoner in his defence. If the question is overruled, it is essential to the regularity of the proceedings that the question shall be recorded in the very words in which it was framed, with a minute of

D.—*in continuation.*

the reasons of the Court for refusing to admit it, in order that the Revising Officer may judge whether the question was properly overruled or not.

It should always be noticed in the proceedings that a Prisoner "had declined to cross-question the several Witnesses," when such is the case. It is important that it should appear, as implied by such an entry, that the Prisoner was asked with regard to each of the Witnesses, whether he wished to ask them any questions or not.

When a Prisoner pleads guilty, and perseveres in that plea, the Queen's Regulations (page 222, Art. 14) require, notwithstanding, that the Court shall receive and record on their proceedings such evidence as may afford a full knowledge of the circumstances, it being essential that the facts and particulars should be known to those whose duty it is to report on the case, as well as to those with whom the discretion rests to carry the sentence into effect.

Prisoner's
Plea.

Thus the Prisoner's plea of "Guilty" must be considered as final as regards his conviction; for the Court, if satisfied that the offence had been committed, would not be justified in acquitting him on the ground of the insufficiency of the evidence produced;—the plea of guilty must be adopted and acted upon, unless the Court should have good reason to believe that it was offered in ignorance or mistake, or that it was in fact untrue.

It will be understood that, although a Prisoner may have pleaded guilty, he is not thereby precluded from addressing the Court in mitigation of his punishment, and should therefore be allowed to offer such observations as might appear to him useful in extenuation of his offence; and also to produce evidence as to character.

D.—*in continuation.*

Reprimanding Non-Commissioned Officers by Sentence of Courts Martial.

Recommendation of a Prisoner to mercy.

Reprimanding a Non-Commissioned Officer, by Sentence of a Court Martial, is positively forbidden, as such a Sentence is reserved exclusively for the *Commissioned* Officer.

In all cases where Courts Martial may be induced to recommend a Prisoner to favourable consideration, it is particularly desirable that such recommendation should be wholly distinct from the Sentence, and be embodied in a separate communication, signed by the President on behalf of the Court, and appended to the proceedings.

FORFEITURE OF PAY, SERVICE, MEDALS ANNUITIES, GRATUITIES, PENSIONS, &c.

168th Article of War.

Every Soldier found guilty by a Court Martial of the following offences :—

Desertion :

Wilfully maiming or injuring himself, or any other Soldier, whether at the instance of such other Soldier or not—or causing himself to be maimed or injured by any other person—with intent thereby to render himself, or such other Soldier, unfit for service :

Tampering with his eyes with intent thereby to render himself unfit for service :

Such finding having been confirmed :

And every Soldier who may have been sentenced to Penal Servitude, or who has been discharged with Ignominy :—

• And every Soldier who has been found guilty of Felony in any Court of Ordinary Criminal Jurisdiction in *England* or *Ireland*, or of any crime or offence in any Court of Criminal Judicature in any part of the United King-

D.—in continuation.

dom, or in any Dominion, Territory, Colony, Settlement, or Island belonging to or occupied by Her Majesty out of the United Kingdom, which would, if committed in England, amount to Felony:—

Shall thereupon forfeit all advantage as to Additional Pay, Good Conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service:—

Also, all Medals and Decorations whatsoever which he may be in possession of and authorized to wear, together with the Annuity or Gratuity, if any, thereto appertaining.

OATH TO BE TAKEN BY MEMBERS OF ALL
COURTS MARTIAL.

[At District, Regimental or Detachment Courts Martial, the President 152nd Article
to administer the oath to the Members; after which any sworn Member of War.
may administer the oath to the President.]

“You shall well and truly try and determine according to the evidence in the matter now before you.

“So help you God.”

“You shall duly administer justice according to the Rules and Articles for the better Government of Her Majesty’s Forces, and according to an Act now in force for the punishment of Mutiny and Desertion, and other crimes therein mentioned, without partiality, favour, or affection; and if any doubt shall arise, which is not explained by the said Articles or Act, then according to your conscience, the best of your understanding, and the custom of War in the like cases. And you shall not divulge the sentence of the Court until it shall be duly approved;

D.—*in continuation.*

neither shall you, upon any account, at any time whatsoever, disclose or discover the vote* or opinion of any particular member of the Court Martial, unless required to give evidence thereof as a witness by a court of justice, or a Court Martial, in a due course of law.

“So help you God.”

[In all cases in which the same Court Martial tries more Prisoners than one, and they are arraigned upon separate and distinct charges, the Court is to be re-sworn at the commencement of each trial, and the proceedings are to be made up separately, and signed, with the date of signature annexed, as if each Prisoner had been tried by a Court Martial composed of different members.—*Queen's Regulations*, page 221, Article 6.]

OATH TO BE ADMINISTERED TO A WITNESS BY
THE PRESIDENT OF A DISTRICT, GARRISON,
REGIMENTAL, OR DETACHMENT COURT MAR-
TIAL.

162nd Article
of War.

“The evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth.

“So help you God.”

FORM OF PROCEEDINGS.†

Proceedings of a Court Martial, held
at , on the day of , 18 , by order
of , dated the day of 18 .
President.
Members.

162nd Article
of War.

* In taking the votes of the Court, the President is required to begin with that of the youngest Member.

† The General Order No. 897, dated Horse Guards, November 9, 1866, relative to the right of addressing the Court by the Prosecutor and Prisoner, will be found in the Appendix, No. 73.

D.—*in continuation.*

No. Regiment is brought a Prisoner before the Court.

The Order for convening the Court, and the appointment of the President, are read.

The Names of the President and Members of the Court are read over in the hearing of the Prisoner, and they severally answer to their names.

<p><i>Question by the President to the Prisoner.</i></p>	}	<p>Do you object to be tried by me as President, or by any of the Officers whose names you have heard read over?</p>
--	---	--

Answer.

The President and Members are duly sworn. The Prisoner No. Regiment, is arraigned upon the following charge:—

<p><i>Question by the President to the Prisoner.</i></p>	}	<p>Are you guilty or not guilty of the charge against you, which you have heard read?</p>
--	---	---

Answer.

Regiment, appears as Prosecutor.

<p>1ST WITNESS FOR THE PROSECUTION,</p>	}	<p>Being duly sworn, is examined by the Prosecutor.</p>
---	---	---

The Prosecution is closed.

DEFENCE.

DEFENCE. The Prisoner, having been called upon to make his defence, says

.

D.—*in continuation.*

The Court is cleared for the purpose of considering its Finding.

FINDING.

The Court find that

The Court being reopened, the Prisoner is again brought before it, is duly sworn.

Question by the President. . . . What record have you to produce in proof of former convictions against the Prisoner?

Answer.

Question. Is the Prisoner under any sentence at the present time?

Answer.

Question. What is the Prisoner's general Character?

Answer.

Question. What is the date of his Attestation?

Answer.

Question. What service is he allowed to reckon towards discharge?

Answer.

Question. What is his age?

Answer.

Question. To what class does he belong?

Answer.

Question. Is the Prisoner in possession of any decorations or honorary rewards?

Answer.

D.—*in continuation.*

*Question.** Was he apprehended, or did he
surrender himself?

Answer.
The Court is again cleared.

SENTENCE.

The Court sentence the Prisoner
No. Regiment.

REVISION.

On the day of , 18 , the Court are re-
assembled by order of , for the purpose of
reconsidering their .

Present the same Members as before.

The is read, and attached to the Proceedings
marked.

The Court, having attentively considered the observa-
tions of the Revising Officer, and the whole of the Pro-
ceedings, do now revoke their former , and

On the day of , 18 , the Court are re-
assembled by order of for the purpose of
reconsidering their .

Present the same Members as before

The is read, and attached to the Proceedings,
marked.

The Court, having attentively considered the observa-
tions of the Revising Officer, and the whole of the Pro-
ceedings do now respectively adhere to their former. . . .

* In case of Desertion.

E.

SUMMONS TO A CIVIL WITNESS.

(Referred to in page 82.)

Whereas a Court Martial has been ordered to assemble at , on , the day of , for the trial of of the Regiment; and whereas it has been stated to me that your evidence will be material on the part of the prosecution [*or Defence, as the case may be*]

By the power and authority in me vested by the 13th clause of the Mutiny Act, I hereby order you personally to appear before the said Court on the day of , at o'clock, and to attend from day to day until you shall be duly discharged. Fail not at your peril

Given under my hand and seal,

at , this day of

President.

To



[NOTE.—In case the witness should be required to produce any document or documents to the Court, the fact should be so stated in the body of the summons, particularizing the nature of the document or documents to be produced.]

F.

FORM OF A COURT OF INQUIRY.

(Referred to in page 88.)

Proceedings of a Court of Inquiry held at
 on the day of , by order of
 Dated 18 .

DETAIL.

One Captain as President, and two Subalterns as Members; or, one Field Officer, and two Captains; or, three Field Officers; or, five Field Officers.

This detail to be regulated according to circumstances, and with reference to the suggestions laid down in pages 87, 88.

[In all cases where specific instructions* are communicated to the President, such instructions to be read and duly considered by the Court, previous to their entering upon the subject of Inquiry.]

No , of the Regiment, the accused, being present, the order for the assembling of the Court was produced and read, when the Court proceeded to the examination of Witnesses.

1st Witness against the accused, of
 the Regiment, states
Cross-examined by the accused.
Answer,
Question by the Court,
Answer,

* These instructions, or a certified copy of them, should be invariably attached to and sent in with the Proceedings.

F.—in continuation.

2nd Witness against the accused, , of the

Regiment, states,

Cross-examined by the accused

Answer.

Question by the Court.

Answer.

3rd Witness against the accused [as above,
observing throughout the same order in the examination of
the Witness].

[All the Witnesses on the part of the accuser having been examined, the
accused is at liberty to make his statement, and to call Witnesses in his
behalf. Should he adopt this course, the Court will proceed in their inves-
tigation as follows :—]

, the accused, states, , and

begs to call upon

1st Witness for the accused, , of the

Regiment, states,

Cross-examined by the accuser.

Answer.

Question by the Court.

Answer.

2nd Witness for the accused, , of the

Regiment, states [as above, observing

throughout the same order in the examination of the Wit-
ness.]

[The accused having nothing further to offer, and not having any more
Witnesses to examine, the Court is cleared; the Minutes of evidence are
signed by the President and Members, and forwarded to the Convening
Officer through the regular channel, unless the Court shall have been re-
quired to give an opinion, in which case the following form should be
adopted :—]

F.—*in continuation.*

OPINION.

The Court, having duly considered the evidence brought forward against the accused, as well as what he has offered in exculpation, are of opinion that

_____, *President.*
 _____ }
 _____ } *Members.*

•

Approved

*Signature of the Officer commanding the
 Regiment or Depot ; or, Major-General
 [or Senior Officer] commanding the
 Division [as the case may be.]*

If, however, the authority who convened the Court shall discover that there has been any omission in the proceedings, and that the investigation has not been carried to the extent necessary, the proceedings are returned to the President† through the officer commanding at the Station where the Court was convened, with directions to the Court to reassemble for the purpose of supplying the deficiency, and a statement of the particular points upon which further information is desired.

On the reassembling of the Court, the President may recall any of the previous Witnesses, and put such additional questions to them as may appear desirable, with a view to elicit every possible information that the case admits. The Court may also examine fresh Witnesses, if any are forthcoming, conducting their proceedings precisely as before, and concluding their investigation in the manner already stated.

* After the Proceedings are duly signed by the President and Members, they should be forwarded to the authority who convened the Court, through the regular channel.

† In cases of *Regimental Inquiry*, the Proceedings are returned *direct* to the President.

G.

CERTIFICATE containing an entry of the previous Con-
victions by Courts Martial, duly confirmed, of No.

A. B., of the , taken
from the Court Martial Book [or Regimental, or Com-
pany's Defaulters' Book, of the Regiment,
as the case may be].

Description of Court Martial by which tried.	Place and Date of Trial.	Copy of the Charges upon which tried. — [The Charges should be given in full.]	Copy of the Finding and Sentence of the Court.	Copy of the Minute of Confirma- tion.

Authenticated by*

Dated at
this day of , 18 .

* Signature of the Officer certifying to the correctness of the extract.

FORM OF CHARGES.*

No. 1.

MUTINY.

(Referred to in page 52.)

CHARGE.

1. For having at _____, on the _____, 18____, 15th Clause, Mutiny Act. 38th Article of War.
 begun, excited, caused, or joined in a Mutiny in the _____
 Regiment.

2. For having at _____, on the _____, 18____,
 been present at a Mutiny in the _____ Regiment, and
 not using his utmost endeavours to suppress the same.

3. For having at _____, on the _____, 18____,
 conspired with _____ to cause a Mutiny in _____.

4. For having at _____, on the _____, 18____,
 come to the knowledge of an intended Mutiny, and not
 giving information thereof to his Commanding Officer.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Death; or,
 Penal Servitude for any term not less than five years; or,
 Corporal Punishment, not exceeding 50 lashes, if in
 the second class; or,

15th and 16th
 Clauses, Mu-
 tiny Act.
 36th Article
 of War.
 22nd, 23rd,
 24th Clauses,
 Mutiny Act.

* It is to be observed that it has been decided by competent authority, that the words at the commencement of the Charge should contain *the description of the crime*; the facts set forth in the after part of the Charge should contain a statement of the acts constituting the prisoner's misconduct.

No. 1.—*in continuation.*

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour ; or,

Corporal Punishment and Imprisonment combined ; or,

at the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods (*vide* pages 12, 19, 21) ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. In addition, Forfeiture of all advantage as to additional Pay (if in the actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case ; and, further, to be discharged from her Majesty's Service with ignominy.

117th Article
of War.

11th Clause,
Mutiny Act,
135th Article
of War.

Although such a case of delinquency can scarcely ever occur, yet if committed on the *Line of March*, and an example is *absolutely necessary on the spot*, a *Regimental Court Martial* is empowered to try the offender, and to award

Corporal Punishment not exceeding 50 lashes, if in the second class ; or,

129th Article
of War.

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour, not exceeding 42 days ; or,

No. 1.—*in continuation.*

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 2.

STRIKING A SUPERIOR OFFICER, OR USING
OR OFFERING VIOLENCE AGAINST HIM.

(Referred to in page 52.)

CHARGE.

For Insubordination, accompanied with personal violence, in having at _____, in the _____ struck [with his clenched fist, *or* open hand, *or* missile, *or* weapon, *as the case may be*] on the _____ [head, face, *or* other part of the body] _____ of the _____ his Superior Officer, and being in the execution of his office;

15th Clause,
Mutiny Act.
37th Article
of War.

OR,

For Insubordination accompanied with personal violence, in having at _____, on _____ [*here state the precise nature of the violence used or offered*], against _____ being his Superior Officer, and being in the execution of his office.*

15th Clause,
Mutiny Act.
37th Article
of War.

* It may not be out of place here to remark, that if there be no attempt to use violence—that is to say, if a sword, or musket, or other weapon be raised or brandished in a threatening manner *at a distance* from the person threatened, or it be coupled with a threat of *future* and not of *present* violence—the crime does not amount to the “Offer of Violence” contemplated by the 37th Article of War. The offence should be described as Threatening Language or Gesture, or both (as the case may be); but

No. 2.—*in continuation.*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

15th and 16th
Clauses, Mu-
tiny Act.
37th Article
of War.

Death; or,

Penal Servitude for any term not less than five years;

or,

Corporal Punishment, not exceeding 50 lashes, if in the second class; or,

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour; or,

22nd, 23rd,
24th Clauses,
Mutiny Act.

Corporal Punishment and Imprisonment combined, and,

at the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. In addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the

117th Article
of War.

whenever a Prisoner's conduct, though unaccompanied by present violence, indicates an intention to commit violence, which is *only prevented by the interference of a third party*, the attempt is in itself an "Offer of Violence," and ought to be so charged.

No. 2.—*in continuation.*

nature of the case; and, further, to be discharged from her Majesty's Service with ignominy.

BY DISTRICT COURT MARTIAL,

When duly authorized to be investigated by such a tribunal, under the 140th Article of War,

140th Article
of War.

Corporal Punishment, not exceeding 50 lashes; or, Solitary Confinement or Imprisonment, as above.—*Vide* pages 12, 19, 21.

BY REGIMENTAL COURT MARTIAL.*

(*On the Line of March.*)

Corporal Punishment, not exceeding 50 lashes, if in the second class; or,

11th Clause
Mutiny Act,
127th Article
of War.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 3.

OFFERING VIOLENCE IN A MILITARY PRISON.

(*Referred to in page 52.*)

CHARGE.

For Insubordination accompanied with personal violence, in having, when confined in the Military Prison at

15th Clause,
Mutiny Act,
37th Article
of War.

* Under the 116th Article of War, no sentence of Corporal Punishment awarded by a Regimental Court Martial can be inflicted without the special sanction of the General or other Officer commanding the District or Station.

No. 3.—*in continuation.*

, on the , struck , of the
 [a visitor of the said Prison, or other his
 Superior Military Officer, *as the case may be*], in having
 &c., [*here describe accurately the nature and extent of the*
offence], he the said being then and there
 in the execution of his office.*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

15th and 16th
 Clauses, Mu-
 tiny Act.
 37th Article
 of War.

Death; or,
 Penal Servitude for any term not less than five years;
 or,
 Corporal Punishment, not exceeding 50 lashes, if in the
 second class; or,
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour; or,
 Corporal Punishment and Imprisonment combined
 and,

22nd, 23rd,
 24th Clauses,
 Mutiny Act.

At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement, of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of

* It may be proper here to observe that a Court Martial is not empowered to take cognizance of violence offered to the *Governor or other regularly appointed Officer or Servants of the Prison*: such a crime will be dealt with by the Visitors or Prison Authorities.

No. 3—*in continuation.*

not less duration than such periods. In addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's Service with ignominy.

117th Article
of War.

BY DISTRICT COURT MARTIAL,

When duly authorized to be investigated by such a tribunal, under the 140th Article of War.

140th Article
of War.

Corporal Punishment, not exceeding 50 lashes, if in the second class; or,

Solitary Confinement; or,

Imprisonment, with or without hard labour, as above. *Vide* pages 12, 18, 19.

126th Article
of War.

No. 4.

DISOBEYING THE COMMAND OF A SUPERIOR OFFICER.

(*Referred to in page 52.*)

CHARGE.

For insubordination, in having at _____, on the _____, disobeyed the lawful commands of _____ his Superior Officer, by [*here describe the precise nature of the act of disobedience imputed to the Prisoner.*]

15th Clause,
Mutiny Act.
38th Article
of War.

No. 4—in continuation.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

15th and 16th
Clauses of
Mutiny Act.
37th Article
of War.
22nd, 23rd,
and 24th
Clauses, Mu-
tiny Act.

Death; or,

Penal Servitude for any term not less than 5 years;

OR,

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour; or,

Corporal Punishment and Imprisonment combined;

and,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, or 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. In addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and further, to be discharged from her Majesty's Service with ignominy.

117th Article
of War.

No 4—in continuation.

BY DISTRICT COURT MARTIAL,

When duly authorized to be investigated by such a tribunal under the 140th Article of War. 140th Article of War.

Solitary Confinement, or Imprisonment, as above.— 126th Article of War.
Vide pp. 12, 18, 20.

BY REGIMENTAL COURT MARTIAL.

(*On the Line of March.*)

Solitary Confinement, not exceeding 14 days; or, 11th Clause, Mutiny Act.
 Imprisonment, with or without hard labour, not exceeding 42 days; or, 126th Article of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 5.

IMPROPER CONDUCT TOWARDS A SUPERIOR.

(*Referred to in page 55.*)

CHARGE.

For Insubordination, in having at _____, on the 41st Article of War.
 of _____, used threatening language towards
 _____, his Superior Officer, and declared [if ever he had
 an opportunity, that "he would take away his life," or
 words to that effect].*

* In all cases of this nature, it is essential that the precise language used should be specified in the Charge; and, if accompanied by gesture, the same should be accurately described.

No. 5—in continuation.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.*

41st Article
of War.22nd, 23rd,
and 27th
Clauses, Mu-
tiny Act117th Article
of War.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour; or, If the Court shall deem fit, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. In addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and further to be discharged from her Majesty's service with ignominy.

BY DISTRICT COURT MARTIAL.

126th Article
of War.

Solitary Confinement or Imprisonment, as above. *Vide* pages 12, 18, 19.

* Corporal Punishment can only be inflicted in cases of Mutiny, and Insubordination accompanied with personal violence.

No. 5—in continuation.

BY REGIMENTAL COURT MARTIAL.

(On the Line of March).

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not ex-
ceeding 42 days ; or.

**11th Clause,
Mutiny Act.
185th Article
of War.**

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

**129th Article
of War.**

No. 6.

DESERTION, MAKING AWAY WITH NECES- SARIES, AND FRAUDULENT ENLISTMENT.

(Referred to in page 53.)

CHARGE.†

1st. For having deserted from the _____ Regiment
at _____, on the _____, and for not having
returned until brought back under escort to _____,
on or about the _____

**15th Clause,
Mutiny Act.
42nd Article
of War.**

N. B.—If the Prisoner made away with any of his regimental clothing, appointments, or necessities, it should form the subject of a second Charge, viz.—

* The sanction of the General or Officer commanding the District or Station must be obtained for the infliction of Corporal Punishment.

† The Prisoner's rank at the period of his Desertion to be invariably inserted in the Charge, as well as his Regimental Number.

No. 6—in continuation.

2nd. For having at the period of his Desertion, as stated in the first charge, made away with, or lost through neglect, the following articles of his regimental clothing, appointments, and necessaries :—

[Here specify the different articles of which the Prisoner shall be found deficient.]

3rd. For having, whilst in a state of Desertion from the _____, as stated in the first charge, enlisted into the _____, on the _____, under the name of _____; and for having, by such enlistment, fraudulently obtained a second bounty, amounting to the sum of _____, or thereabouts, and also a free kit.*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

15th and 16th
Clauses, Mu-
tiny Act.
42nd Article
of War.
27th Clause,
Mutiny Act.

Death ; or

Penal Servitude for any term not less than 5 years ; or,
Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; and,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 366 days, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded

* See Queen's Regulations page 225, par. 25.—The *amount* of bounty should always be stated if possible, but sometimes there is no evidence on this point ; likewise the value of the kit ; but, if this cannot be proved, the Prisoner should be put under stoppages to make good the kit, as it comes under the head of necessaries, 180th Art. ; and must be replaced *always* at the *prices* of the necessaries *at the time* of release to the man.

No. 6—in continuation.

shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; marking with the letter D,* and stoppages (if convicted of making away with his necessaries). In addition, Forfeiture of all advantage as to additional Pay, good conduct Pay, and Pension on Discharge, and sentenced to be discharged with Ignominy.†

130th, 131st,
132nd, and
117th Arti-
cles of War.
48th Article
of War.

BY DISTRICT COURT MARTIAL.

Same as above except "Death" and "Penal Servitude."

48th and
126th Arti-
cles of War.

No. 7.

ADVISING OR PERSUADING OTHERS TO
DESERT.

(Referred to in page 53.)

CHARGE.

For having at _____, on the _____ [or between the _____
and _____], advised [or persuaded, as _____ of War.
the case may be] Private _____, of the _____

* Whenever the Court abstains from sentencing the offender to be marked with the letter D, the reasons which have led them to omit this are to be stated by the President in a separate letter, appended to the proceedings. Queen's Regulations, page 223, para. 16.

† Every soldier found guilty by a Court Martial of Desertion, such finding having been confirmed, shall thereupon forfeit all advantage as to additional Pay, good conduct Pay, and Pension on discharge which might otherwise accrue from the length of his former service; also all Medals or Decorations, together with any annuity or gratuity thereto appertaining. 168th Article of War.

No. 7.—*in continuation.*

Regiment, to desert from her Majesty's Service, by having in conversation with the said Private said to him [*here state the acts done, or the words used by way of advice or persuasion*].

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

44th Article
of War
27th Clause,
Mutiny Act.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; and,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment not exceeding 14 days at a time, nor 84 days in any one period of 336 days ; with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. In addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case ; and to be discharged from her Majesty's Service with Ignominy.

117th, 120th,
121st, and
122nd Article
of War.

BY DISTRICT COURT MARTIAL.

120th Article
of War.

Solitary Confinement ; or,
Imprisonment with or without hard labour, as above.

Vide pages 12, 18, 19.

No. 7—in continuation.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General commanding
the District.

Solitary Confinement, not exceeding 14 days; or, 140th Article
Imprisonment, with or without hard labour, not ex- of War.
ceeding 42 days; or,

If the Court shall think fit, the offender to be kept in 129th Article
Solitary Confinement for any portion or portions of such of War.
Imprisonment, not exceeding 14 days at a time, with an
interval between them of not less duration than such
period of Solitary Confinement.

No. 8.

FRAUDULENT CONFESSION OF DESERTION
BY A SOLDIER WHILE SERVING.

(Referred to in page 53.)

CHARGE.

For having, at , on the while 46th Article
serving in her Majesty's Forces [*or, as the case may be*], of War.
as a Private in the Regiment of ,
fraudulently confessed himself to Sergeant ,
of the said Regiment, to be a Deserter, by falsely stating
and pretending to the said Sergeant [*here state what was*
said to the Non-Commissioned Officer, and which is con-
sidered to be the confession of Desertion].

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,

No. 8—in continuation.

46th Article
of War.
27th Clause,
Mutiny Act.

Imprisonment, with or without hard labour ; and,
At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of *Solitary Confinement* of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the *Solitary Confinement* shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of *Solitary Confinement* of not less duration than such periods. Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case ; and to be discharged from her Majesty's service with ignominy.

117th, 120th,
131st, and
132nd Arti-
cles of War.

BY DISTRICT COURT MARTIAL.

126th Article
of War.

Solitary Confinement ; or,
Imprisonment, with or without hard labour, as above.
Vide pages 12, 18, 20.

BY REGIMENTAL COURT MARTIAL.

Under the authority of the Major-General Commanding
the District.

140th Article
of War.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceed-
ing 42 days ; or,

No. 8—in continuation.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

130th Article
of War.

No. 9.

ABSENCE WITHOUT LEAVE.

(Referred to in page 71.)

CHARGE.

For having, at _____, on the _____, without leave from his commanding Officer, absented himself from the _____ Regiment [*or Depot*], until brought back under escort, on or about the _____

50th Article
of War.
139th Article
of War.

[If the Prisoner should return to the quarters of his Corps of his own accord, and surrender himself, the words "*brought back under escort*" will of course be omitted.

If the man's absence without leave exceed 21 days (reckoned from the period he absented himself to the date of his surrender or apprehension), a Regimental Court Martial is not competent to take cognizance of the offence; and the Prisoner's conduct must in that case be investigated by a General or District Court Martial on a distinct charge of "*Desertion.*" *Vide* pages 48 and 51.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

No. 9—in continuation.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

In addition to any punishment awarded by the Court, the Offender forfeits, as a matter of course, his pay and service for the days on which he has absented himself without leave. *Vide* 172nd Article of War.

No. 10.

ABSENCE WITHOUT LEAVE FROM TATTOO.

(*Referred to in page 72.*)

CHARGE.

For having, without leave from his Commanding Officer, absented himself from tattoo at , on the night of , until the following morning.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

50th Article
of War.
129th Article
of War.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 11.

SLEEPING ON HIS POST.

(Referred to in page 52.)

CHARGE.

For having been found sleeping on his Post, when sentry over , at , on the night of [or the morning of the , as the case may be].

15th Clause,
Mutiny Act.
57th Article
of War.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Death ; or,

Penal Servitude, for any term not less than 5 years ;

or,

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour ; and,

15th and 16th
clauses, Mu-
tiny Act.
57th Article
of War.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement, of not less duration than such periods. Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might

117th Article
of War.

No. 11—*in continuation.*

have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case, and to be discharged from her Majesty's Service with ignominy.

BY DISTRICT COURT MARTIAL,

140th Article of War. When duly authorized to be investigated by such a tribunal, under the 138th Article of War.

126th Article of War. Solitary Confinement; or,
Imprisonment, with or without hard labour, as above.
Vide pages 12, 18, 20.

No. 12.

LEAVING HIS POST BEFORE BEING
RELIEVED.

CHARGE.

15th Clause, Mutiny Act.
75th Article of War. For having, before being regularly relieved, left his Post, when sentry over , at , on the night of the [or the morning of
, *as the case may be*].

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

As above.

No. 13.

LEAVING A GUARD OF PICQUET.

(Referred to in page 53.)

CHARGE.

For having, on the _____, left his Guard [*or* 65th Article
 Picquet, *or* Post, *as the case may be*], at _____, of War.
 without having first obtained leave from the Officer, or
 Non-Commissioned Officer, in command of the said Guard
 [*or* Picquet, *or* Post], and for not having returned
 until

[If the offender should not return to his Guard or Picquet, before it is
 relieved, the latter part of the charge to be worded accordingly.]

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour; and,

69th Article
 of War.
 27th Clause,
 Mutiny Act.

At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such Imprison-
 ment, not exceeding 14 days at a time, nor 84 days in
 any one period of 336 days, with intervals between the
 periods of Solitary Confinement of not less duration than
 such periods; and when the Imprisonment awarded shall
 exceed 84 days, the Court shall expressly order that the
 Solitary Confinement shall not exceed 7 days in any 28
 days of the whole Imprisonment awarded, with intervals
 between the periods of Solitary Confinement of not less
 duration than such periods. Forfeiture of all advantage
 as to additional Pay (if in actual receipt of any), good
 conduct Pay, and Pension on Discharge, which might
 have otherwise accrued from the length of his former

130th, 131st,
 132nd Arti-
 cles of War.

No. 13—in continuation.

service; or to the forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's Service with ignominy.

BY DISTRICT COURT MARTIAL.

126th Article
of War.

Solitary Confinement; or,
Imprisonment, with or without hard labour, as above.
Vide pages 12, 18, 19.

BY REGIMENTAL COURT MARTIAL,

When duly authorized to be investigated by such a tribunal, under the 138th Article of War.

140th Article
of War.
129th Article
of War.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 14.

BREAKING ARREST, OR ESCAPING FROM CONFINEMENT.

(*Referred to in page 53.*)

CHARGE.

69th Article
of War.

For having, at _____, on the _____ day of _____,
, whilst under Arrest [*or, as the case may*

No. 14—in continuation.

be] in confinement in the [here specify the place in which he was confined], escaped* from such confinement before he was set at liberty by proper authority.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

[If a Non-Commissioned Officer, Reduction to the Ranks ;]

69th Article
of War.
27th Clause,
Mutiny Act.

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour ; and,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such period ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might otherwise have accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case ; and to be discharged with ignominy from her Majesty's Service.

130th, 131st
and 132nd
Articles of
War.

* Broken his Arrest, in the case of a Sergeant.

No. 14.—*in continuation.*

BY DISTRICT COURT MARTIAL.

[If a Non-Commissioned Officer, Reduction to the Ranks;]

126th Article
of War.

Solitary Confinement; or,
Imprisonment, with or without hard labour, as above.
Vide pages 12, 18, 20.

BY REGIMENTAL COURT MARTIAL,

146th Article
of War.

When duly authorized to be investigated by such a tribunal, under the 138th Article of War.

[If a Non-Commissioned Officer, Reduction to the Ranks;]

126th Article
of War.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such Imprisonment not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 15.

ABSENCE FROM PARADE.

(*Referred to in page 72.*)

CHARGE.

70th Article
of War.
126th Article
of War.

For having at _____, on the _____, failed to appear at _____, the place of parade appointed by his Commanding Officer, although duly warned to attend it.

No. 15—in continuation.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 16.

A NON-COMMISSIONED OFFICER, COMMANDING A GUARD, PICQUET, OR PATROL, SUFFERING A PRISONER COMMITTED TO HIS CHARGE TO ESCAPE.

(Referred to in page 72.)

CHARGE.

For having, when in command of [*here state whether a Guard, Picquet, or Patrol*], at _____, on the _____, negligently [*or wilfully, as the case may be*] suffered* _____, a Prisoner committed to his charge, to escape.

PENALTY IN CASE OF CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Reduction to the Ranks ; and,

73rd Article
of War.

* Or, released him, without proper authority, *as the case may be.*

No. 16—in continuation.

At the discretion of the Court, Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 17.

**NON-COMMISSIONED OFFICERS NEGLECTING
TO OBEY ANY GARRISON OR OTHER OR-
DERS.**

(Referred to in page 71.)

CHARGE.

7⁵th Article
of War.
129th Article
of War.

For having, when in command of the Barrack [*or other*] Guard at _____, on the _____, neglected to* _____, although it was his duty to have done so, agreeably to [the standing orders of the Garrison or Regiment, *as the case may be*].

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Reduction to the Ranks ; and,

At the discretion of the Court, Solitary Confinement, not exceeding 14 days ; or,

* Here specify the nature of the neglect.

No. 17.—*in continuation.*

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 18.

PRIVATE SOLDIERS NEGLECTING TO OBEY
ANY GARRISON OR OTHER ORDERS.

(*Referred to in page 71.*)

CHARGE.

For having at _____, on the _____, entered a Public House kept by _____, thereby neglecting to obey a Garrison [*or Regimental Order, as the case may be*].

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

75th Article
of War.
129th Article
of War.

No. 19.

DRUNK ON DUTY UNDER ARMS.

(Referred to in page 72.)

CHARGE.

76th Article
of War.

For having been drunk when on duty under arms, on
the guard,* at [or on picquet, or
when employed as mounted orderly, or on escort duty,
as the case may be], on the day of .

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

76th Article
of War.
22nd, 23rd,
24th, and
27th Clauses,
Mutiny Act.

Solitary Confinement, not exceeding 14 days; or,
To be deprived of a penny a day of his Pay for any
period not exceeding 60 days;

Imprisonment, with or without hard labour; or,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement, of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. Forfeiture of all advantage

* The nature of the guard should always be stated; and, if the Prisoner was on sentry at the time, the particular post should be inserted in the Charge.

No. 19—in continuation.

as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged with ignominy from her Majesty's Service. 76th Article of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement, or Imprisonment, as above. 126th Article of War.
Vide pages 12, 18, 20.

Also deprivation of a penny a day of his Pay, for any period not exceeding 60 days.

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or, 129th Article of War.
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such periods of Solitary Confinement; also,

To be deprived of a penny a day of his Pay for any period not exceeding 60 days.

No. 20.

**DRUNK WHEN ON ANY DUTY NOT UNDER
ARMS, OR FOR DUTY, OR ON PARADE, OR
ON THE LINE OF MARCH.**

(Referred to in page 71.)

CHARGE.

For having, on the _____, at _____, been drunk on duty not under arms [*here state the precise nature of the duty on which the Prisoner was employed*];

OR,

For having, at _____, on the _____, been drunk when for duty [*or parade*] [*state the duty or parade*];

OR,

For having, at _____, on the _____, been drunk when on parade [*state the particular parade*];

OR,

For having, at _____, on the _____, been drunk on the Line of March* between _____ and _____.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

76th to 78th
Articles of
War.
139th Article
of War.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such

77th and 78th
Articles of
War.

* A soldier is to be considered "on the Line of March," while he is on the route from one place to another, from the time of his starting until he arrives at the place of his destination, and he is considered to be so, whether he is at a halting-place, or is actually on the move; and the same construction applies, whether the troops actually march or are conveyed in Railway Trains, or Canal Boats, or otherwise.

No. 20—in continuation.

Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement. In addition, to be deprived of a penny a day of his Pay for any period not exceeding 30 days.

No. 21.

HABITUAL DRUNKENNESS.*

(Referred to in pages 35 and 70.)

CHARGE.

1. For Habitual Drunkenness, in having been drunk in Barracks [*or, as the case may be*], at _____, on the _____, that being the fourth time of his being drunk within 365 days.

2. For Habitual Drunkenness, in having been drunk on duty under arms [*or, "when for duty," or, "on parade," or, "on the line of march," as the case may be*], at _____, on the _____, that being the second time of his being drunk when on *or* for duty, *or* on parade, *or* on the line of march, within 365 days.

3. For Habitual Drunkenness, in having been drunk in Barracks [*or, as the case may be*], at _____, on the _____

* If the offender shall have been drunk more than the precise number of times necessary to constitute "Habitual Drunkenness," the whole number of instances should be stated in the Charge, as already suggested in page 39.

In case the last or *immediate* instance of Drunkenness was attended by any act of violence, insubordination, or other military offence, the same will, of course, be made the subject of a *distinct* and separate charge.

No. 21—in continuation.

, that being the second time of his being drunk within 168 days after conviction for Habitual Drunkenness.

4. For Habitual Drunkenness, in having at , on the , within 168 days after conviction for Habitual Drunkenness, been drunk on duty under arms [or, "when for duty," or, "on parade," or, "on the line of march," as the case may be].

PENALTY IN CASE OF CONVICTION

BY DISTRICT COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; and,

120th Article
of War.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, or 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods.

78th Article
of War.

Forfeiture of *one* penny a day of his Pay, for any period not *less* than 168 days, and not *exceeding* 672 days.

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

120th Article
of War.

At the discretion of the Court, the Offender to be kept in Solitary Confinement for any portion or portions of

No. 21—*in continuation.*

such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

Forfeiture of one penny a day of his pay for any period not exceeding 168 days.* 78th Article
of War

No. 22.

DISGRACEFUL CONDUCT.

CHARGE.

EMBEZZLING, OR FRAUDULENTLY MISAPPLYING PUBLIC MONEY.

For disgraceful conduct, in having at _____, on the _____ day of _____, embezzled or fraudulently misapplied the sum of [here specify the amount], being public money entrusted to him by _____, for the purpose of [here state the facts fully]. 80th Article
of War.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Penal Servitude for any term of years, not less than 5; 80th Article
of War.
or,
Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour; or,
Corporal Punishment and Imprisonment combined;
and,

* In the first Trial for Habitual Drunkenness in 365 days the Court may award stoppage of pay; but if the Prisoner is tried again for Habitual Drunkenness within 168 days after a Conviction for Habitual Drunkenness, the Court must, over and above any former forfeiture of Pay, sentence the Prisoner to be deprived of one penny a day of his Pay for such period as it is competent to award.

No. 22—in continuation.

80th Article
of War.
22nd, 23rd,
24th, and 27th
Clauses, Mu-
tiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; and further to be put under stoppages. In addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's service with ignominy.

130th Article
of War.

BY DISTRICT COURT MARTIAL.

130th, 131st,
and 132nd
Articles of
War.
126th Article
of War.

As above, with the exception of "Penal Servitude."
Vide pages 12, 18, 19.

No. 23.

DISGRACEFUL CONDUCT.

(Referred to in page 53.)

CHARGE.

WILFULLY MAIMING OR MUTILATING.

181st Article
of War.

For disgraceful conduct, in having at on or about
the , wilfully maimed [or injured] himself, by dis-

No. 23—in continuation.

charging a loaded musket through his wrist [or inflicting a wound with , *as the case may be*], with intent thereby to render himself unfit for her Majesty's Service.

OR,

MAIMING OR INJURING ANOTHER SOLDIER.*

For disgraceful conduct, in having at the , at the instance of Private , of the Regiment,† wilfully maimed [or injured] the said Private , by discharging a loaded musket through the wrist of him, the said Private [or inflicting a wound with , *as the case may be*], with intent thereby to render him, the said Private , unfit for her Majesty's Service. 81st Article of War.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; or,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order

181st Article of War.
22nd, 23rd, 24th, and 27th Clauses, Mutiny Act.

* Every Soldier found guilty by a Court Martial of wilfully maiming or injuring himself, or any other Soldier, or causing himself to be maimed or injured, or tampering with his eyes with intent thereby to render himself unfit for Service, such finding having been confirmed, shall thereupon forfeit all advantages as to additional Pay, Good Conduct Pay, and Pension on discharge which might otherwise accrue from the length of his former Service, and also all Medals and Decorations, together with any gratuity or annuity appertaining thereto. 183th Article of War.

† If the injury was not inflicted at the instance of the other Soldier, these words should be omitted.

No. 23—in continuation.

that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. In addition, Forfeiture of all advantage as to additional Pay, good Conduct Pay, and to Pension on Discharge; and to be discharged from her Majesty's Service with ignominy.

BY DISTRICT COURT MARTIAL.

130th, 131st,
and 132nd
Articles of
War.

As above. *Vide* pages 12, 18, 19.

No. 24.

DISGRACEFUL CONDUCT.

CHARGE.

TAMPERING WITH EYES.

81st Article
of War.

For disgraceful conduct, in having at _____, on the _____, tampered with his eyes, by [*describe the nature of the act supposed to have been done by the Prisoner*], with intent thereby to render himself unfit for service.

MALINGERING AND FEIGNING DISEASE.

81st Article
of War.

For disgraceful conduct at _____ on or about the _____, in malingering, feigning [*or producing Disease or Infirmary, or wilfully doing any act, or wilfully disobeying any orders, thereby producing or aggravating Disease or Infirmary, or delaying his cure [as the case may be]*].

[In each case the acts done or omitted to be done, from whence the Court is to draw the inference that he malingered, &c., &c., should be specified.]

No. 24—in continuation.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; and,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and in addition Forfeiture of all advantage as to additional Pay, good conduct Pay, and to Pension on Discharge ; and to be discharged from her Majesty's Service with Ignominy.*

81st Article
of War.
22nd, 28rd,
24th, and
27th Clauses,
Mutiny Act.

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 12, 18, 19.

180th, 181st,
and 182nd
Articles of
War.
119th Article
of War.

No. 25.

DISGRACEFUL CONDUCT. .

CHARGE.

STEALING FROM A COMRADE OR MILITARY OFFICER, OR
FROM ANY MILITARY OR REGIMENTAL MESS, ETC.

For disgraceful conduct, in having at , ON 81st Article
the , stolen of War.

[Here specify the precise nature and extent of the theft, and whether the property belonged to an Officer or Soldier, or to any military or regimental mess or band.]

* See Note, page 149.

No. 25—in continuation.

OR,

81st Article
of War.

For disgraceful conduct, in having at _____, on
the _____, received the following articles
feloniously, knowing the same to have been stolen, viz.

[Here describe the articles.]

PURLOINING OR SELLING GOVERNMENT STORES.

81st Article
of War.

For disgraceful conduct, in having at _____
between the _____ and _____, purloined
[or sold] the following Property or Stores, belonging to
the Government [or receiving the same feloniously, know-
ing the same to have been stolen [as the case may be].

[Here specify the different articles purloined or sold.]

[N. B.—In all cases where articles or money have been stolen, it is not
sufficient to state the *general* amount or value of the articles, or money
taken: the value of each article should be specified; and the money ac-
tually taken, whether it consists of notes, or gold, or silver, or copper coin,
should be described according as the fact may be.]

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

81st Article
of War.
22nd, 23rd,
24th, and
27th Clauses,
Mutiny Act.

Imprisonment, with or without hard labour; or,
Solitary Confinement, not exceeding 14 days; and,
At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such Impri-
sonment, not exceeding 14 days at a time, nor 84 days in
any one period of 336 days, with intervals between the
periods of Solitary Confinement of not less duration than
such periods; and when the Imprisonment awarded shall
exceed 84 days, the Court shall expressly order that the
Solitary Confinement shall not exceed 7 days in any 28
days of the whole Imprisonment awarded, with intervals
between the periods of Solitary Confinement of not less

No. 25—in continuation.

duration than such periods; and further to be put under *stoppages*; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged with ignominy from her Majesty's Service.

130th Article
of War.

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 12, 18, 19.

130th, 131st,
and 132nd
Articles of
War.
126th Ar-
ticle of War.

No. 26.

DISGRACEFUL CONDUCT.

CHARGE.

MAKING AWAY WITH SMART MONEY.

For disgraceful conduct, in having at
on or about the , fraudulently embezzled the
sum of , Government money received by him
from , as smart money for the discharge of
Recruit.

81st Article
of War.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour; and,
At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such Impri-

81st Article
of War.
22nd, 23rd,
24th, and
27th Clauses,
Mutiny Act.

No. 26—in continuation.

130th Article
of War.

sonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; and also to be put under stoppages; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's Service with ignominy.

BY DISTRICT COURT MARTIAL.

130th, 131st,
and 132nd
Articles of
War.
126th Article
of War.As above. *Vide* pages 12, 18, 19.

No. 27.

DISGRACEFUL CONDUCT.

CHARGE.

COMMITTING ANY PETTY OFFENCE OF A FELONIOUS OR
FRAUDULENT NATURE UPON A CIVILIAN.

81st Article
of War.

For disgraceful conduct, in having, at , on
the , fraudulently obtained from ,

No. 27—in continuation.

a civilian, the sum of _____, [or goods, as the case may be], amounting to _____, by _____ [here state the nature of the trick or pretence by means of which the money or goods was or were obtained.]

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour; or,
 Corporal Punishment and Imprisonment combined;
 and,

81st Article
 of War.
 22nd, 23rd,
 24th, and
 27th Clauses,
 Mutiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; also to be put under stoppages; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's Service with ignominy.

130th Article
 of War

No. 27.—*in continuation.*

BY DISTRICT COURT MARTIAL.

130th, 131st,
and 132nd
Articles of
War.
126th Article
of War.

As above. *Vide* pages 12, 18, 19.

No. 28.

DISGRACEFUL CONDUCT.

CHARGE.

PRODUCING FALSE OR FRAUDULENT ACCOUNTS OR
RETURNS.

88th Article
of War.

For disgraceful conduct, in having, on the day of _____, at _____, in his capacity of Sergeant-Major [Quarter-Master Sergeant, Pay Sergeant, Sergeant or Corporal *as the case may be*], produced to the Paymaster [Adjutant, or other Officer, *as the case may be*] certain false certificates [*or vouchers or accounts*], as follows :—

[Here specify the particular nature and description of the Certificates or Vouchers, or Accounts produced.]

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

88th Article
of War.
22nd, 23rd,
24th, and
27th Clauses,
Mutiny Act.

Solitary Confinement, not exceeding 14 days ; or, Imprisonment, with or without hard labour : and, At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall

No. 28—in continuation.

exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; and, in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's Service with ignominy.

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 12, 18, 19.

130th, 131st,
and 132nd
Articles of
War.
126th Article
of War.

No. 29.

REFUSING ASSISTANCE TO A MAGISTRATE
IN THE APPREHENSION OF MILITARY PER-
SONS ACCUSED OF CIVIL CRIMES.

(Referred to in page 53.)

CHARGE.

For having, at _____, on the _____, wilfully _____ 96th Article
refused or neglected to deliver over to _____, Civil _____ of War.
Magistrate, or [*as the case may be*] to assist in the ap-
prehension of _____, of the
Regiment, accused of a crime punishable by law.

[The Charge should in every instance be specific, and adopted to the particular circumstances of the case.]

No. 29—in continuation.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

96th Article
of War.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; and,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case ; and to be discharged from her Majesty's Service with ignominy.

130th, 131st,
and 132nd
Articles of
War.
27th Clause
Mutiny Act.

BY DISTRICT COURT MARTIAL.

Solitary Confinement ; or,

126th Article
of War.

Imprisonment, with or without hard labour, as above.
Vide pages 12, 18, 19.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General commanding
the District.

140th Article
of War.

Solitary Confinement, not exceeding 14 days ; or,

No. 29—in continuation.

Imprisonment, with or without hard labour, not exceeding 42 days ; or,

129th Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 30.

A NON-COMMISSIONED OFFICER STRIKING
OR ILL-TREATING A SOLDIER.

(Referred to in page 71.)

CHARGE.

For having at _____, on the _____, struck [*or as the* 100th Article
case may be], Private [*or Drummer*] _____, of the 126th Article
Regiment. of War.

[The particular nature of the ill-usage should be stated.]

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Reduction to the Ranks ; and,

At the discretion of the Court, Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such

No. 30—in continuation.

Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 31.

LOSING BY NEGLECT, MAKING AWAY WITH, SPOILING, OR DAMAGING ARMS, CLOTHING, INSTRUMENTS, EQUIPMENTS, ACCOUTREMENTS, OR NECESSARIES.

(Referred to in page 71.)

CHARGE.

For having at , on the day of ,
[or between the and], lost by neglect,
designedly made away with, spoiled, or damaged [as the
case may be], the following articles: *—

[Here specify the different articles in detail, having reference always to the provisions of the 130th Article of War, already adverted to in this book, page 12.]

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

102nd and
130th Arti-
cles of War.
129th Article
of War.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not ex-
ceeding 42 days; or,

* The Court should endeavour to ascertain whether the articles were lost by accident or carelessness, or wilfully made away with. If they do not find that they were wilfully disposed of, their finding should be that they were lost by neglect.

No. 31—in continuation.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement; and in addition, to be put under stoppages.

No. 32.

MAKING AWAY WITH MEDALS.

CHARGE.

For having _____, on _____, spoiled, wilfully de- 102nd Article
faced, made away with, or pawned his Medal.* of War.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement; and, in addition, to be put under stoppages.

* The losing through neglect his Medal, is not an offence for which a Soldier is liable to be tried by Court Martial.

No. 33.

DRAGOONS ILL-TREATING THEIR HORSES.

(Referred to in page 71.)

CHARGE.

102nd and 130th Articles of War. 129th Article of War. For having, at _____, on the _____, wilfully stabbed *[or as the case may be]* his horse, troop letter _____, No. _____, by _____.

[Here specify the particulars of the ill-treatment; and if the horse shall have sustained any damage, the amount of such damage should be specified in the Charge.]

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

102nd and 130th Articles of War. 129th Article of War. Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

And in addition (should the horse have sustained any damage by the ill-treatment), to be put under stoppages until the damage shall be made good.—128th Article of War.

No. 34.

IRREGULAR CONDUCT ON ESCORT DUTY.

(Referred to in page 55.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having, at _____ on _____ when on the march with a party in charge of Prisoners, proceeding to _____, conducted himself in an irregular and unsoldier-like manner, in going into a public house contrary to the order of [*here state the name of the Officer, or Non-Commissioned Officer, by whom the order was given*], and remaining there until he became drunk and unfit for duty.

105th Article of War.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour; or,

If the Court shall deem fit, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; and in addition Forfeiture of all advantage as to additional Pay (if in actual receipt of

106th Article of War. 22nd, 23rd, and 27th Clauses, Mutiny Act.

No. 34—in continuation.

any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's Service with ignominy.

BY DISTRICT COURT MARTIAL.

126th Article of War. Solitary Confinement, or Imprisonment, as above. *Vide* pages 12, 18, 19.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General of the District.

106th Article of War. Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 35.

OBSTRUCTING AND ASSAULTING THE POLICE IN THE EXECUTION OF THEIR DUTY.

(Referred to in page 55.)

CHARGE.

105th Article of War. For conduct to the prejudice of good order and Military discipline, in having, at , on the

No. 35—in continuation.

day of , aided and assisted [soldiers or civilians, as the case may be] in obstructing and assaulting Constables and , in the execution of their duty. [*The particulars in every case should be distinctly specified.*]*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour ; or,

At the discretion of the Court, to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement, of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and, in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case ; and to be discharged from her Majesty's Service with ignominy.

106th Article
of War.
23rd and 27th
Clauses, Mu-
tiny Act.

* If the Prisoner actually joined the party, he should be charged with the actual assault and obstruction, whether he was guilty of any violence or not.

No. 35—in continuation.

BY DISTRICT COURT MARTIAL.

Solitary Confinement, or Imprisonment, as above.
Vide pages 12, 18, 19.

BY REGIMENTAL COURT MARTIAL.

129th Article
 of War.

Solitary Confinement, not exceeding 14 days ; or,
 Imprisonment, with or without hard labour, not ex-
 ceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in
 Solitary Confinement for any portion or portions of such
 Imprisonment, not exceeding 14 days at a time, with an
 interval between them of not less duration than such
 period of Solitary Confinement.

No. 36.

FORCING OR STRIKING A SENTINEL.

(*Referred to in page 56.*)

CHARGE.

106th Article
 of War.

For conduct to the prejudice of good order and Mili-
 tary discipline, in having, at _____, on the _____,
 wilfully struck Private _____, he being at the time
 sentry over.*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

106th Article
 of War.
 22nd, 23rd,
 27th Clause,
 Mutiny Act.

Solitary Confinement, not exceeding 14 days ; or,
 Imprisonment, with or without hard labour ; or,

* Or, for having forced a sentry, as the case may be.

No. 36—*in continuation.*

If the Court shall see fit, to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; and, in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's service with ignominy.

117th Article
of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement, or Imprisonment, as above. 126th Article
of War.
Vide pages 12, 18, 19.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General of the
District.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

129th Article
of War.

No. 36—in continuation.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 37.

SOLDIERS PERMITTING A NON-COMMISSIONED OFFICER TO BE ASSAULTED BY CIVILIANS WITHOUT AFFORDING HIM ANY AID OR ASSISTANCE.

(Referred to in page 55.)

CHARGE.

106th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having, at _____, on the day of _____, wilfully refused or neglected to render assistance to Sergeant [or Corporal] of the Regiment, who in their presence, and within reach of their assistance, was violently assaulted by a civilian or civilians.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

106th Article
of War.
27th Clause,
Mutiny Act.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour; and, If the Court shall deem fit, to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the

No. 37.—*in continuation.*

periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the case ; to be discharged from her Majesty's Service with ignominy.

117th Article
of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement or Imprisonment, as above.—*Vide* 126th Article of War.
pages 12, 18, 19.

BY REGIMENTAL COURT MARTIAL.

Under the authority of the Major-General of the District.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

129th Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 38.

WRITING AN ANONYMOUS LETTER, IMPUTING IMPROPER CONDUCT TO A SUPERIOR.

(Referred to in page 55.)

CHARGE.

105th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on the _____ written and sent to A. B., then and there being his Superior Officer, an anonymous Letter, which letter contained the following passage* [*to be set out in words*], thereby falsely imputing to the said A. B. improper motives in the discharge of his duty.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

105th Article
of War.
27th Clause,
Mutiny Act.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour; and, At the discretion of the Court, to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in

* If no particular passage can be selected, the whole letter should be set out.

N. B.—Should the letter have been written and sent to any other than the Prisoner's immediate Superior or Commanding Officer, some slight alteration in the wording of the charge, so as to meet the case, will, of course, become necessary.

Although by a rule of common law comparison of a disputed writing with writing acknowledged to be genuine is only allowed in courts of civil jurisdiction, and is not permitted in courts of criminal jurisdiction, except in Ireland, it has, however, been decided by competent authority that, in this diversity of rule, it is lawful to act on the sounder rule of the two, which is undoubtedly to allow of such comparison.

No. 38—in continuation.

any one period of 336 days, with intervals between the periods of Solitary Confinement, of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or ~~to~~ forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's Service with ignominy.

BY DISTRICT COURT MARTIAL.

Solitary Confinement or Imprisonment, as above. 126th Article of War.
Vide pages 12, 18, 19.

BY REGIMENTAL COURT MARTIAL.

Under the authority of the Major-General of the
 District.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour, not exceeding 42 days; or, 129th Article of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 39.

**A NON-COMMISSIONED OFFICER ALLOWING
A PRISONER IN HIS CHARGE TO GET
DRUNK.**

(Referred to in page 72.)

CHARGE.

106th Article of War. For conduct to the prejudice of good order and Military discipline, in having at _____, on the _____, when Sergeant [*or* Corporal] of the _____ Guard, wilfully [*or* through neglect] allowed Private _____, to get drunk, when a Prisoner under his charge.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Reduction to the rank and pay of a private soldier; and, at the discretion of the Court,

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 40.

A SENTRY NEGLECTING HIS DUTY.

(Referred to in page 72.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having, when on sentry at the regimental guard-room door at _____, on the _____ day of _____, 18____, wilfully [*or through neglect, as the case may be,*] permitted A. B., a Prisoner in the guard-room, to quit the said guard-room, and thereby effect his escape from confinement.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour, not exceeding 42 days; or,

105th Article
 of War.
 129th Article
 of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 41.

PERSUADING OR ENDEAVOURING TO PERSUADE A SENTRY TO DISOBEY THE ORDERS OF HIS POST.

(Referred to in page 72.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having at _____, on the _____

105th Article
 of War.
 129th Article
 of War.

No. 41.—*in continuation.*

persuaded [*or endeavoured to persuade, as the case may be*], Private _____, being a sentry at his Post, to _____, * he, the Prisoner, knowing at the time that the sentry's compliance would be in disobedience of the orders of his Post.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

[If a Non-Commissioned Officer, reduction to the ranks, in addition to]

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 42.

A SENTRY NEGLECTING TO OBEY THE
ORDERS OF HIS POST.

(*Referred to in page 72.*)

CHARGE.

For conduct to the prejudice of good order and Military discipline in having at _____, on the _____,

* Here add the particular fact, adding whatever the Prisoner said to the sentry by way of persuasion.

No. 42—in continuation.

when on sentry at No. , Post, wilfully [or by
neglect, *as the case may be*], allowed , * thereby ne-
glecting to obey the orders of his Post.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour, not ex-
ceeding 42 days ; or,

105th Article
of War.
129th Article
of War.

If the Court shall think fit, the offender to be kept in
Solitary Confinement for any portion or portions of such
Imprisonment not exceeding 14 days at a time, with an
interval between them of not less duration than such
period of Solitary Confinement.

No 43.

OFFERING A BRIBE TO A SENTRY.

(Referred to in page 72.)

CHARGE.

For conduct to the prejudice of good order and Mili-
tary discipline, in having at , on the ,
offered a bribe to Private , by [*here state what*
the Prisoner said or did], to induce him, the said Private
, to conceal from superior authority a circum-
stance which occurred when he was on sentry at .

105th Article
of War.
129th Article
of War.

* Here state the particular fact.

No. 43—in continuation.

which circumstance he, the Prisoner, knew it was the duty of the said sentry duly to report.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

[If a Non-Commissioned Officer, reduction to the ranks, in addition to]

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 44.

A SENTRY RECEIVING A BRIBE.

(Referred to in page 72.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having at _____, on the _____, received from _____, a bribe *not* to make known a circumstance which occurred on his Post, when on sentry at _____, which circumstance it was his duty to report to superior authority.*

* The particulars should be given in full, adding what was said to the Prisoner, or received by him.

No. 44—in continuation.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
 Imprisonment, with or without hard labour, not exceeding 42 days ; or,

105th Article
of War.
129th Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 45.

A SENTRY DELIVERING OVER THE CHARGE
 OF HIS POST TO ANOTHER SOLDIER WITH-
 OUT A NON - COMMISSIONED OFFICER
 BEING PRESENT AT THE RELIEF.*

(Referred to in page 72.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having, at _____, on the _____, when on sentry at No. _____, Post, delivered over his Charge to Private _____, one of the guard, without a Non-Commissioned Officer being present at the relief.

105th Article
of War.
129th Article
of War.

* This offence, when committed on any other than an ordinary Barrack Guard, is generally investigated by a District or Garrison Court Martial.

No. 45—in continuation.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 46.

A SOLDIER RELIEVING ANOTHER ON SENTRY, WITHOUT BEING REGULARLY POSTED BY A NON-COMMISSIONED OFFICER OF THE GUARD.*

(Referred to in page 72.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having, at _____, on the _____, when on guard, relieved Private _____, who was on sentry at _____, without being regularly posted at such relief by a Non-Commissioned Officer of the Guard.

* This offence, when committed on any other than an ordinary Barrack Guard, is generally investigated by a District or Garrison Court Martial.

No. 46—*in continuation.*

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
 Imprisonment, with or without hard labour, not exceeding 42 days ; or,

106th Article
 of War.
 129th Article
 of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 47.

A CORPORAL OF A GUARD PERMITTING A SOLDIER TO RELIEVE ANOTHER ON SENTRY WITHOUT HIS BEING PRESENT AT THE RELIEF.*

(*Referred to in page 72.*)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having, when Corporal of the Guard, at _____, on the _____, wilfully permitted Private _____, one of the Guard, to relieve Private _____, who was then on sentry at No. _____, Post, without his (the Prisoner) being present at the relief.

106th Article
 of War.
 129th Article
 of War.

* This offence, when committed on any other than an ordinary Barrack Guard, is generally investigated by a District or Garrison Court Martial.

No. 47—in continuation.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

105th Article of War. Reduction to Private; and, at the discretion of the
129th Article of War. Court,

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 48.

IMPROPER CONDUCT TOWARDS A SUPERIOR.

(Referred to in page 55.)

CHARGE.

105th Article of War. For conduct to the prejudice of good order and Military discipline, in having at . . . , on the . . . , threatened to shoot [or to stab, *as the case may be*] . . . , his Superior Officer; he, the Prisoner, having his musket loaded with powder and ball at the time [or his drawn bayonet in his hand, *as the case may be*].*

* In all cases of this nature, it is essential that the ~~precise~~ language used should be specified in the Charge; and if accompanied by gesture, the same should be accurately described.

No. 48—in continuation.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour ; or,

If the Court shall deem fit, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case ; and to be discharged from her Majesty's service with ignominy.

106th Article
of War.

22nd, 23rd,
and 27th
Clauses,
Mutiny Act.

117th Article
of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement or Imprisonment, as above. *Vide* pages 12, 18, 19.

126th Article
of War.

BY REGIMENTAL COURT MARTIAL.

(*On the Line of March*).

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour, not exceeding 42 days ; or,

11th Clause,
Mutiny Act.
135th Article
of War.
129th Article
of War.

No. 48—in continuation.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 49.

DRUNK AND RIOTOUS IN THE STREETS, OR
BARRACKS;

OR,

DRUNK AND RIOTOUS IN THE STREETS, AND
DRAWING HIS BAYONET.

(Referred to in page 72.)

CHARGE.

105th Article
of War.
129th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having been drunk and riotous in the streets [or Barracks, *as the case may be*] at , on the , and for resisting and offering violence to the Picquet ordered to take him into Confinement.

OR,

For conduct to the prejudice of good order and Military discipline, in having been drunk and riotous in the streets at , on the , and, for having drawn or attempted to draw his bayonet upon .

No. 49—in continuation.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour, not exceeding 42 days; or,

106th Article
of War.
129th Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 50.

IMPROPER CONDUCT TO NON-COMMISSIONED OFFICERS.

(Referred to in page 72.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having on the morning parade at the , made use of insolent and improper language [here state the precise language used] towards Sergeant, , on his [the Sergeant] pointing out to the Prisoner the slovenly state in which he had appeared on parade.

106th Article
of War.
129th Article
of War.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour, not exceeding 42 days; or,

No. 50—in continuation.

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 51.

**FALSELY ACCUSING A NON-COMMISSIONED
OFFICER OF DRUNKENNESS.**

(Referred to in page 73.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having, at _____, on the _____, in a statement made to _____, falsely and maliciously said of Sergeant [*or Corporal*] _____ of the _____ Regiment, that he the said Sergeant [*or Corporal*] was drunk on the _____

[The precise language used should be stated, adding, "or words to that effect."]

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

105th Article
of War.
129th Article
of War.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such

No. 51—in continuation.

Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 52.

BREAKING OUT OF BARRACKS AFTER HOURS.

(Referred to in page 73.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in breaking out of, or quitting without leave from his commanding officer, the Barracks, after hours, at , on the , and not returning until brought back by a party sent in search of him on the following morning..

105th Article
of War,
199th Article
of War.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 53.

**BREAKING OUT OF BARRACKS WHEN
CONFINED THERETO.***(Referred to in page 73.)***CHARGE.**

For conduct to the prejudice of good order and Military discipline, in breaking out of Barracks when confined thereto, at _____, on the _____ day of _____, and not returning until brought back by an escort on the afternoon of the following day.

PENALTY IN CASE OF CONVICTION**BY REGIMENTAL COURT MARTIAL.**

106th Article
of War.
129th Article
of War.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such periods of Solitary Confinement.

No. 54.

A SOLDIER STRIKING A COMRADE.*(Referred to in page 73.)***CHARGE.**

106th Article
of War.
129th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on the _____ day

No. 54—*in continuation.*

of , wilfully, and without provocation, struck Private , belonging to No. Company, thereby provoking [*or* intending to provoke, *as the case may be*], the said Private to a pugilistic contest.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 55.

SOLDIERS FIGHTING, AND CREATING DISTURBANCE IN BARRACKS.

(*Referred to in page 73.*)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having at , on the , created a disturbance in Barracks, by fighting with Private , of No. , Company.

No. 55—*in continuation.*

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

105th Article
of War.
129th Article
of War.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 56.

TELLING A FALSEHOOD TO SCREEN A COMRADE.

(Referred to in page 73.)

CHARGE.

105th Article
of War.
129th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at , on the , and when under examination in the orderly room, falsely stated to his Commanding Officer that Private . : * whereas he, the Prisoner, well knew at the time that the contrary was the fact.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not exceeding 42 days ; or,

* Here insert the substance of the statement made.

No. 56—in continuation.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 57.

ATTEMPTING TO DECEIVE THE CAPTAIN OR
COMMANDING OFFICER OF HIS TROOP OR
COMPANY AT AN INSPECTION OF NECES-
SARIES.

(Referred to in page 73.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having at , on the , when the Troop or Company was paraded for an inspection of necessaries, attempted to deceive his Captain [or Commanding Officer of the Troop or Company] by producing the following articles,* which he alleged were his own, but which on examination were found to belong to , who, being employed as an orderly [or a servant to a staff officer, *as the case may be*], was not present at the inspection.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not ex-
ceeding 42 days; or,

105th Article
of War.
129th Article
of War.

* Here insert the articles.

No. 57—in continuation.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 58.

FOR AIDING AND ABETTING A SOLDIER IN AN ATTEMPT TO DECEIVE THE CAPTAIN OR COMMANDING OFFICER OF HIS TROOP OR COMPANY AT AN INSPECTION OF NECESSARIES.

(Referred to in page 73.)

CHARGE.

105th Article
of War.
129th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having, at _____, on the _____, aided and abetted Private _____, in an attempt to deceive the Captain or Commanding Officer of his Troop or Company, at the inspection of necessities, by lending him the following articles,* whereby to enable the said Private _____ to make it appear that his Kit was complete.

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,
If the Court shall think fit, the offender to be kept in

* Here insert the articles.

No. 58—in continuation.

Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 59.

PREFERRING FRIVOLOUS AND UNFOUNDED COMPLAINTS AS TO THE QUALITY OF PROVISIONS OR NECESSARIES.

(Referred to in page 73.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having at _____, on the _____, wilfully preferred a *frivolous* and *unfounded* complaint as to the quality of meat [or bread, or necessities, as the case may be], by saying [*the complaint to be here stated in terms, adding*], or words to that effect.

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

105th Article
of War.
129th Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 60.

FIRING OFF A MUSKET, LOADED WITH BALL IN HIS BARRACK-ROOM.

(Referred to in page 73.)

CHARGE.

106th Article of War. For conduct to the prejudice of good order and Military discipline, in having at, , on the , fired off a musket loaded with powder and ball, in his Barrack-room, thereby endangering the lives of other Soldiers, and wantonly expending a round of the service ammunition intrusted to his charge, and further causing Barrack damages to the amount of , or thereabouts.

[N. B.—Although the crimes introduced from Page 161 to 186, inclusive, are commonly submitted to the investigation of Regimental Courts Martial, it will be understood that they are cognizable also by the higher tribunals, whenever circumstances of peculiar aggravation render it necessary.]

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL:

129th Article of War. Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement; and, in addition, to be put under stoppages.

No. 61.

MILITARY WITNESS FAILING TO ATTEND
AT A COURT MARTIAL.*(Referred to in page 81.)*

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having, at _____, on the _____ day of _____, without any just cause, failed to attend as a witness on the trial of _____, before a Court Martial, although he, the Prisoner, had been duly ordered to attend by _____, his Superior Officer, as witness on such trial.

105th Article
of War.

PENALTY IN CASE OF CONVICTION.

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; and,

105th Article
of War.
22nd and
27th Clause
Mutiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, or 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and, in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good

No. 61—in continuation.

117th Article of War. conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's service with ignominy.

BY DISTRICT COURT MARTIAL.

126th Article of War. Solitary Confinement or Imprisonment, as above. *Vid.* pages 12, 18, 19.

BY REGIMENTAL COURT MARTIAL.

126th Article of War. Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment not exceeding 14 days at a time, with intervals between them of not less duration than such period of Solitary Confinement.

No. 62.

MILITARY WITNESS REFUSING TO BE SWORN.

(*Referred to in page 81.*)

CHARGE.

106th Article of War. For conduct to the prejudice of good order and Military discipline, in having, at _____, on the day of _____, when in attendance as witness at a Court Martial, held for the trial of _____, refused to be sworn

No. 62—in continuation.

in order to give his evidence, although repeatedly warned by the President of the consequence of that refusal, he, the said being a necessary witness on such trial.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; and,

106th Article
of War.
23rd and 27th
Clauses, Mu-
tiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment not exceeding 14 days at a time, nor 84 days in any one period of 336 days ; with intervals between the periods of Solitary Confinement of not less duration than such periods ; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case ; and to be discharged from her Majesty's Service with ignominy.

117th Article
of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement, or imprisonment as above. *Vide* 126th Article of War.
pages 12, 18, 19.

No. 62—in continuation.

BY REGIMENTAL COURT MARTIAL.

129th Article
of War.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour, not ex-
ceeding 42 days ; or,

If the Court shall think fit, the offender to be kept in
Solitary Confinement for any portion or portions of such
Imprisonment, not exceeding 14 days at a time, with in-
tervals between them of not less duration than such period
of Solitary Confinement.

No. 63.

MILITARY WITNESS REFUSING TO GIVE
EVIDENCE.

(Referred to in page 81.)

CHARGE.

105th Article
of War.

For conduct to the prejudice of good order and Mili-
tary discipline, in having, at _____, on the _____,
day of _____ having been duly sworn as a witness before
a _____ Court Martial then sitting for the trial of _____,
refused to _____ [*here state the nature of the*
refusal, whether to give evidence, or to answer questions, or
both, as the case may be].

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

105th Article
of War.
23rd and
27th Clauses,
Mutiny Act.

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; or,
At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such Impri-

No. 63—in continuation.

sonment, not exceeding 14 days at a time, or 84 days in any one period of 336 days, with intervals between the periods of Solitary Confinement of not less duration than such periods; and when the Imprisonment awarded shall exceed 84 days, the Court shall expressly order that the Solitary Confinement shall not exceed 7 days in any 28 days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods; and in addition, Forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and to be discharged from her Majesty's Service with ignominy.

117th Article
of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement, or Imprisonment, as above. 119th Article
Vide pages 12, 18, 19. of War.

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

129th Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with intervals between them of not less duration than such period of Solitary Confinement.

No. 64.

CIRCULAR MEMORANDUM.

(Referred to in page 30.)

HORSE GUARDS, 20th May, 1847.

Although the power of removing soldiers committed under sentence of Court Martial to Civil Prisons is reserved to the confirming authority by the 41st clause of the Mutiny Act, it is necessary to explain that that provision does not extend to the buildings set apart as Military Prisons, which are placed by the Act strictly under the superintendence of the Secretary of War, and the Visitors appointed by the Act, and by his authority under it, and that no Soldier committed to a Military Prison can be legally discharged from custody before the expiration of his sentence without the Secretary of War's sanction, or that of one of the General Officers to whom he may have deputed his authority. And the Commander-in-Chief being of opinion that it must be for the advantage of discipline that the remission of punishment should, in all cases, depend on the conduct of the Soldier while in prison, His Grace has been pleased to direct that henceforth, when Commanding Officers, or others to whom the Secretary at War's authority has not been deputed, see fit to recommend the remission of a portion of an Imprisonment awarded by a Regimental or other Court Martial, the recommendation may be addressed to the Visitors of the Military Prison to which the Soldier shall have been committed, for their consideration and approval, previously to his release by competent authority.

It is to be clearly understood that this order has re-

No. 64—*in continuation.*

ference only to the remission of Imprisonment subsequent to committal, and that it is in no manner intended to interfere with or restrict the exercise of mercy by Commanding Officers or others, in remitting or diminishing the amount of Punishment awarded to Soldiers when confirming the sentence of Courts Martial.

By command of Field Marshal the Duke of Wellington,
Commander-in-Chief.

(Signed) JOHN MACDONALD,
Adjutant-General.

No. 65.

(*Referred to in page 19.*)

CONFIDENTIAL.

*Circular Letter to General and
other Officers commanding
on Stations at Home and
Abroad.*

HORSE GUARDS, 20th October, 1864.

SIR,—His Royal Highness the Field Marshal Commanding-in-Chief, having had under his consideration the working of General and District Courts Martial, has come to the conclusion that there are but few crimes committed by Soldiers which cannot effectually be dealt with by the District Courts Martial, provided the restriction which is now laid upon them by the Queen's Regulations, not to inflict more than 6 months' Imprisonment, be modified.

It is therefore Her Majesty's pleasure that such re-

No. 65—in continuation.

striction shall be so far modified, that a District Court Martial shall henceforth be empowered in very grave cases to inflict any term of Imprisonment not exceeding 2 years, with hard labour and Solitary Confinement, in the proportions already laid down.

In addition, a District Court Martial will, as heretofore, have the power to recommend dismissal with Ignominy, and the marking the delinquent with the letters B, C, or D.

These powers, extended to District Courts Martial, it is considered, will be ample for the maintenance of discipline among Non-Commissioned Officers and Privates, without resorting to the higher tribunal of a General Court Martial, except in cases so aggravated as to seem to require the punishment of death or of penal servitude.

His Royal Highness directs that you will be pleased to make these orders, as sanctioned by Her Majesty, known in the District under your command, for the guidance of the President and Members of such Courts Martial as may be convened by your authority.

I have the honour to be, Sir,

Your obedient Servant,

J. YORKE SCARLETT,
Adjutant-General.



No. 66.

CIRCULAR.

(Referred to in page 48.)

HORSE GUARDS, 16th June, 1836.

SIR,—Lord Hill is persuaded that, if Commanding Officers avail themselves of the power vested in them by the 43rd Article of War, an offence now of frequent occurrence, and highly prejudicial to discipline, namely that of absence without leave, will be checked.

50th Article
of War.

His Lordship will, accordingly, hold Commanding Officers responsible for the strict application of such part of the provisions of that Clause as empowers them to deprive the Soldier of his Pay for absence without leave, for any number of days,* not exceeding *five*.

To enable Lord Hill to judge how far the new power thus vested in the Commanding Officer has answered its purposes, His Lordship desires that the number of cases of absence without leave that shall have been thus disposed of by the award of the Commanding Officer may be noted at the bottom of the Monthly Return of Courts Martial.

It is, however, to be distinctly understood, that in ordering Commanding Officers to give due effect to the power alluded to, they are not precluded from trying the Soldier by a Court Martial for less than five days' absence without leave, if, upon investigating the case, the

* In reckoning this forfeiture, *the day on which the Soldier absents himself, and the day on which he returns*, are equally to be counted days for that purpose, although the absence may not, in *either case*, amount to an entire day.

No. 66—in continuation.

circumstances elicited shall appear to call for a heavier punishment than the mere forfeiture of the Pay.

All cases of absence without leave for any period above five days must be brought to trial before a Court Martial.

When a case of the last-mentioned description is attended with extenuating circumstances, which shall render the Commanding Officer desirous to deal leniently with it, he may consider himself at liberty to apply to the General Officer under whose immediate orders he is serving (or to the General Commanding-in-Chief, if serving in a District not commanded by a General Officer), for special authority to dispense with the trial by Court Martial;* but Lord Hill expects that such applications shall never be made except upon the most urgent grounds, the particulars of which must, invariably, be specified in detail.

I have the honour to be, Sir,

Your obedient, humble Servant,

JOHN MACDONALD,

Adjutant-General.

*the Officer Commanding
Regiment of*

* It is understood that the power of dispensing with the trial can only be exercised by General Officers of Districts in those cases of *simple absence without leave* [not exceeding 21 days] in which there was manifestly *no intention to desert*.

No. 67.

E. H.

CIRCULAR MEMORANDUM.*Addressed to the Army at Home.*

HORSE GUARDS, S. W., 20th July, 1861.

General No. 145.

Courts Martial.
I—(1861.)

His Royal Highness the General Commanding-in-Chief finds it necessary to call the attention of Courts Martial to the annexed extract of the Circular dated Horse Guards, 26th July, 1845.

By Command,

JAMES YORKE SCARLETT,

Adjutant-General.

Extract of a Circular Memorandum, dated Horse Guards, 26th July, 1845, addressed to Officers Commanding Regiments and Depots in Great Britain and Ireland.

“The number of cells provided in the District Military Prisons for enforcing sentences of Solitary Confinement being but limited, the Commander-in-Chief recommends that Courts Martial, in passing mixed sentences of Imprisonment, should leave it to the discretion of the Governor of the Prison to appoint the precise period, or periods, of the Imprisonment at which the offender shall undergo Solitary Confinement.”

“Courts Martial will, however, in and by their sentence fix the number and length of the portions of the

No. 67—in continuation.

“Imprisonment for which the offender is to be kept in
 “Solitary Confinement, and direct that intervals of not
 “less duration than that required by the Mutiny Act and
 “Articles of War shall take place between the periods
 “of Solitary Confinement.”

No. 68.

CIRCULAR MEMORANDUM.

*Addressed to the Army at Home
 and Abroad, and to be read at
 the head of every Corps.*

HORSE GUARDS, S. W., 21st February, 1861.

General No. 108.

Penal Servitude.
 1—(1861)

His Royal Highness the General Commanding-in-Chief, with the concurrence of the Secretary of State for War, desires that, hereafter, Soldiers who may be convicted by Courts Martial, or by the Civil Power, and sentenced to Penal Servitude, shall not, as a consequence of such sentence, be discharged from the Service.*

Such offenders will be sent to a prison to be specially appointed for them.

An immediate report of any such sentence of penal

* Under the 23rd Article of War, Soldiers sentenced to Penal Servitude may be discharged forthwith by order of the Commander-in-Chief.

No. 68—*in continuation.*

servitude should be made to the Adjutant-General of the Forces, for the information of the General Commanding-in-Chief.

By Command,
JAMES YORKE SCARLETT,
Adjutant-General.

No. 69.

HORSE GUARDS, S. W., 23rd May, 1866.

SIR,—With reference to the instructions issued from this Office in June last, relative to the powers and duties of the newly created Deputy Judge Advocates, I have now the honour, by desire of the Field Marshal Commanding-in-Chief, to transmit the enclosed amended memorandum upon this subject, copy of which is to be laid before all Presidents of General and District Courts Martial.

I have the honour to be, Sir,
Your most obedient Servant,
W. PAULET,
Adjutant-General.

The Officer Commanding.

No. 70.

MEMORANDUM.

*To be laid before
the Presidents of
all General or
District Courts
Martial.*

The Deputy Judge-Advocate at a General Court Martial should maintain an entirely impartial position, and act as Assessor to the Court.

No. 70—in continuation.

He should give his advice on all matters of law, evidence, or procedure, and, whether consulted or not, interfere to insure the due formality and legality of the proceedings.

At the conclusion of the case he should sum up the evidence, and give his opinion upon the law, before the Court proceeds to deliberate upon its finding.

The opinion of the Deputy Judge-Advocate ought to be conclusive upon any point of law or procedure which arises upon a trial at which he officially attends, whether he has or has not an opportunity of consulting the Judge Advocate-General before a decision is made.

He should be responsible to the Judge Advocate-General for a proper record of the proceedings, but in important cases he should be assisted in the discharge of this duty by a sworn short-hand writer.

In all cases when a Prisoner is undefended, he should take care that such Prisoner should not lose any privilege that the law allows him in the conduct of the trial.

The seat and table of the Deputy Judge-Advocate should be at the right of the President of the Court.

He should take no part in the conduct of the Prosecution, but in other respects should fulfil the duties now cast upon Deputy Judge-Advocates.

With respect to District Courts Martial, the Presidents are to be instructed to forward them, as ordered by the Articles of War, to the Judge Advocate-General, but under cover to the Deputy Judge-Advocate of the District who will read them, and draw the immediate attention of the Judge Advocate-General to anything requiring notice in the proceedings.

W. PAULET,
Adjutant-General.

No. 71.

CIRCULAR.

HORSE GUARDS, 11th August, 1865.

SIR,—The attention of the Field Marshal Command-in-Chief having been called to the different practice which exists in Regiments relative to the trial of Soldiers for Habitual Drunkenness, I have it in command to inform you, that His Royal Highness is of opinion it is desirable, that in all cases, unless some very special reason can be given for not doing so, a soldier who has been four times drunk within twelve months is to be brought to trial.

You will be pleased to impress this opinion upon Commanding Officers of Regiments serving under you ; and I am to request you to especially mention in your half-yearly Confidential Report, whether the views of His Royal Highness have been regarded.

I have the honour to be, Sir,

Your very obedient Servant,

W. PAULET,

Adjutant-General.

[See page 15, foot note.]

CIRCULAR MEMORANDUM.*Addressed to the Army at Home
and Abroad.*

HORSE GUARDS, S. W., 22nd November, 1865.

General No. 358.

Courts Martial.
1—(1865.)

The attention of His Royal Highness the Field Marshal Commanding-in-Chief has been called to the variety of practice of Courts Martial in making reference to the Mutiny Act and Articles of War, in sentence of stoppages of pay, and in other cases.

Such references being unnecessary, His Royal Highness is pleased to direct that, for the future, in awarding stoppages of pay, Courts Martial shall sentence the Offender "to be put under stoppages of pay until he shall have made good the following articles (specifying them, and adding the pecuniary amount where necessary)", without further reference to the Mutiny Act and Articles of War.

His Royal Highness is likewise pleased to order that in all other sentences direct reference to the Mutiny Act and Articles of War is to be avoided; care being taken, as heretofore, that the sentence shall in each case duly conform to the provisions of the Mutiny Act and Articles of War applicable thereto.

A copy of this order is to be laid before all Courts Martial.

By Command of HIS ROYAL HIGHNESS

The Field Marshal Commanding-in-Chief;

WILLIAM PAULET,

Adjutant General.

No. 73.

[CONFIDENTIAL.]

CIRCULAR.

HORSE GUARDS, 12th August, 1866.

SIR,—His Royal Highness the Field Marshal Commanding-in-Chief is pleased to direct, that in all cases in which Soldiers may be sentenced by Courts Martial to "imprisonment," the award shall not exceed two years.

A copy of this communication should be laid before all Courts Martial.

I have the honour to be, Sir,
Your very obedient Servant,
W. PAULET,
Adjutant General.

No. 74.

No. 897.

GENERAL ORDER.

HORSE GUARDS, S. W., 9th November, 1866.

Courts Martial.
4-- (1866.)

WITH reference to Circular Memorandum No. 379, dated Horse Guards, 18th June, 1866, the following instructions and regulations are, by command of His Royal Highness the Field Marshal Commanding-in-Chief, issued as supplementary to the Memorandum attached to the

No. 74—in continuation.

above-quoted Circular Memorandum, with a view to regulate and render uniform the procedure of General Courts Martial, in respect to addresses to the Courts from the Officer conducting the prosecution and from the prisoner.

1. With respect to addresses to the Court on the part of the prosecution and the defence respectively, the procedure has not hitherto been uniform,—and the practice of the prisoner having a rejoinder to the reply of the prosecutor being regarded as an irregularity,—the following regulations, appointing what addresses should, and what should not, be allowed, as well as the procedure to be followed in all cases, having met with the approbation of His Royal Highness, are to be strictly adhered to.

2. The Officer conducting the prosecution is allowed an opening address. At the close of the evidence for the prosecution, the Deputy Judge Advocate will ask the prisoner if he intends to adduce evidence. If the prisoner then replies in the negative, the prosecutor will proceed to address the Court a second time, for the purpose of summing up his evidence, after which the prisoner will address the Court in his defence. At the conclusion of his address, the Deputy Judge Advocate will, in open Court, sum up the case to the Court.

3. If, in answer to the Deputy Judge Advocate, the prisoner states that he intends to adduce evidence, he will then open his case with an address, before calling his witnesses, and at the conclusion of the evidence he may again address the Court, after which the prosecutor will be entitled to a reply.

4. In those special cases where evidence is allowed in reply, the second address of the prisoner will be after

No. 74—*in continuation.*

such evidence, and immediately before the prosecutor's reply.

The address in open court of the Deputy Judge-Advocate, summing up the whole case, will then follow the prosecutor's reply.

After the Deputy Judge-Advocate has spoken, no other address is to be allowed, and the Court will retire to consider its finding.

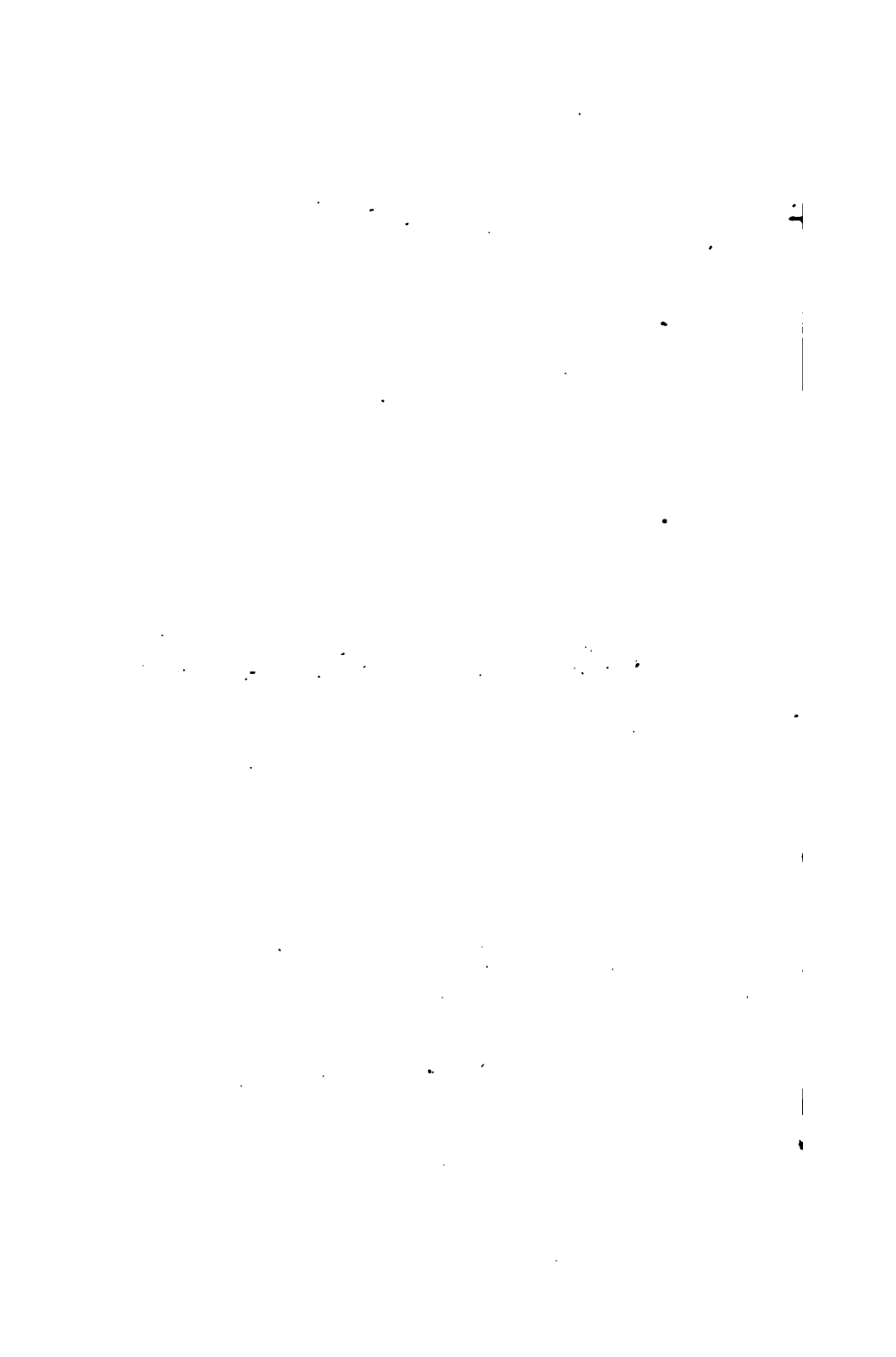
5. If any question should arise incidentally during the trial, as upon the admissibility of evidence, the party, whether prosecutor or prisoner, requesting the opinion of the Court, will speak first, the other party will then answer, and the first party will be allowed to reply.

By Command of HIS ROYAL HIGHNESS

The Field Marshal Commanding-in-Chief;

WILLIAM PAULET,

Adjutant-General.



INDEX.

	PAGE.
ABSENCE without leave,	71, 131
— from Parade,	71, 138
— from Tattoo,	72, 132
Accounts or Returns, false Productions of,	156
Additional Pay or good conduct Pay and Pension, Forfeiture of,	34, 35, 36, 37
Advising or persuading to Desert,	53, 127, 128
Aiding and abetting in the Attempt to deceive the Captain or Commanding Officer of a Troop or Company, at an Inspection of Necessaries,	73, 190
Allowance to Civil Witnesses,	84
Anonymous Letter, imputing improper Conduct and Motives to a Superior,	54, 55, 170
Appendix,	95
Application for the assembling of Courts Martial,	12, 45, 98, 100
Arms, Drunkenness on Duty, under,	142, 143
Arrest, Breaking of,	53, 136, 137
Assaulting and Obstructing Police,	54, 55, 164, 165
Attempting to deceive the Captain or Commanding Officer of a Troop or Company at an Inspection of Necessaries,	73, 189
 BARRACKS, Breaking out of, after hours,	 73, 185
— Do. when confined thereto,	73, 186
Bayonets, Soldiers drawing them upon each other, or upon Civilians,	72, 182, 183
Breaking Arrest, or escaping from Confinement,	53, 136, 137
Bribe, offer of a, to a Sentry,	72, 175
— Sentry receiving a,	72, 176

	PAGE
CHALLENGE of Members,	102
Character, General, Inquiry into,	60
— Stage of Proceedings at which a Prisoner is at Liberty to produce Evidence as to,	56, 57
— Witnesses as to, to be examined upon Oath,	57
Charges not to be vague or indefinite,	44
Charges, <i>Forms of, with the Penalties attaching to each in case of Conviction, viz. :—</i>	
— Mutiny,	115, 116
— Striking or offering Violence against a superior Officer,	117, 118
— Offering Violence in a Military Prison to a Visitor, or other Superior Military Officer,	119, 120
— Disobeying the Command of a Superior Officer,	121, 122
— Improper Conduct towards a Superior,	123, 124
— Desertion, making away with Necessaries, and Fraudu- lent Enlistment,	125, 126
— Advising or persuading others to desert,	127, 128
— Fraudulent Confession of Desertion by a Soldier while serving,	129, 130
— Absence without Leave,	131
— Absence without Leave from Tattoo,	132
— Sleeping on his Post,	133
— Leaving his Post before being Relieved,	134
— Leaving a Guard or Picquet,	135, 136
— Breaking Arrest, or escaping from Confinement,	136, 137
— Absence from Parade,	138, 139
— A Non-Commissioned Officer commanding a Guard, &c., suffering a Prisoner to escape from his Charge,	139, 140
— Non-Commissioned Officers neglecting to obey any Gar- rison or other Orders,	140
— Private Soldiers neglecting to obey any Garrison or other Orders,	141
— Drunk on Duty, under Arms,	142, 143
— Drunk when on any Duty not under Arms, or for Duty, or on Parade, or on the Line of March,	144
— Habitual Drunkenness,	145, 146

Charges—*continued*.— Disgraceful Conduct, as contemplated by the *Mutiny Act*,
and *Articles of War* :—

— Embezzling or fraudulently misapplying Public Money	147, 148
— Wilfully Maiming or Mutilating,	148, 149
— Tampering with Eyes,	150, 151
— Stealing from a Comrade, or Military Officer, or from any Military or Regimental Mess, &c.,	151, 152
— Making away with Smart Money,	153, 154
— Committing any petty Offence of a Felonious or Fraudu- lent Nature upon a Civilian,	154, 155
— Producing false or fraudulent Accounts or Returns,	156, 157
— Refusing Assistance to a Magistrate in the Apprehension of Military Persons accused of Civil Crimes,	157, 158
— a Non-Commissioned Officer Striking or Ill-treating a Soldier,	159
— Losing by Neglect, making away with, spoiling or da- maging Arms, Clothing, Instruments, Equipments, Accountrements, or Necessaries,	161
— Making away with Medals,	161
— Dragoons ill-treating their Horses,	162
— Irregular Conduct on Escort Duty,	163, 164
— Obstructing and Assaulting the Police in the Execution of their Duty,	164, 165
— Forcing or Striking a Sentinel,	166, 167
— Soldiers permitting a Non-Commissioned Officer to be assaulted by Civilians without affording him any Aid or Assistance,	168, 169
— Writing an Anonymous Letter, imputing Improper Con- duct to a Superior,	170, 171
— a Non-Commissioned Officer allowing a Prisoner in his charge to get Drunk,	172
— a Sentry neglecting his Duty,	173
— persuading, or endeavouring to persuade, a Sentry to disobey the Orders of his Post,	173, 174
— a Sentry neglecting to obey the Orders of his Post,	174, 175

Charges—continued.

— Offering a Bribe to a Sentry,	175, 176
— a Sentry receiving a Bribe,	176, 177
— a Sentry delivering over the Charge of his Post to another Soldier, without a Non-Commissioned Officer being present at the Relief,	177, 178
— a Soldier relieving another on Sentry, without being regularly posted by a Non-Commissioned Officer of the Guard,	178, 179
— a Corporal of a Guard permitting a Soldier to relieve another on a Sentry, without his being present at the Relief,	179, 180
— Improper Conduct towards a Superior,	180, 181
— Drunk and Riotous in the Streets or Barracks; or Drunk and Riotous in the Street, and Drawing his Bayonet,	182, 183
— Improper Conduct to a Non-Commissioned Officer,	183
— Falsely accusing a Non-Commissioned Officer of Drunkenness,	184
— Breaking out of Barrack after Hours,	185
— Ditto, when Confined thereto,	186
— a Soldier striking a Comrade,	186, 187
— Soldiers Fighting, and creating Disturbance in Barracks,	187, 188
— Telling a Falsehood to screen a Comrade,	188, 189
— Attempting to deceive the Captain or Commanding Officer of his Troop or Company at an Inspection of Necessaries,	189
— For aiding and abetting a Soldier in an Attempt to deceive the Captain or commanding Officer of his Troop or Company at an Inspection of Necessaries,	190
— Preferring frivolous and unfounded Complaints as to the Quality of Provisions or Necessaries,	191
— Firing off a Musket, loaded with Ball, in his Barrack-room,	192
— a Military Witness failing to attend at a Court Martial,	193, 194
— a Military Witness refusing to be Sworn,	194, 195
— a Military Witness refusing to give Evidence,	196, 197

INDEX.

217

PAGE.

Civil Crimes, Soldiers refusing to assist Magistrates in the Apprehension of Military Persons accused of, . . .	53, 157
Civilians, Soldiers permitting them to assault Non-Com- missioned Officers without affording their Assistance, . . .	54, 55, 168, 169
Civil Witnesses, Allowance to,	84
— Form of Summons for,	110
— Suggestions applicable to,	79 to 85
Complaints, preferring frivolous and unfounded,	73, 191
Comrade, a Soldier striking a,	73, 186
— Telling a Falsehood to screen,	73, 188
— Stealing from,	151
Conduct, Disgraceful,	34, 35, 36, 37, 53, 147 to 157
Confinement, Solitary, by Sentence of District or Garrison Courts Martial,	15, 19, 20
— Escaping from,	53, 136, 137
Convictions, previous, Rule of Proceedings,	57 to 64, 114
Corporal of a Guard permitting a Soldier to relieve another on Sentry without being present at the Relief himself, 72, 179,	180
Corporal Punishment, limited to certain Crimes,	16, 17
— Medical Examination of a Prisoner, previous to inflic- tion of,	18
— combined with Imprisonment, Solitary or otherwise, . .	15
— extent to which it can be applied,	16
— Commutation of,	16
— Infliction of, in a Military Prison,	16
— General Remarks on the subject of,	15, 16, 17, 18, 19
Courts of Inquiry, General Remarks upon the subject of them, .	86 to 91
— Form of Proceedings,	111, 112, 113
Courts Martial, Form of Proceedings,	95, 96, 97
DEFAULTER'S BOOK, not admissible in Evidence, except on Trials for Habitual Drunkenness,	68
Desertion,	47, 51, 53, 125, 126
— Advising or Persuading others to commit the Crime of, . .	53, 127
	128

Desertion—continued.

- Fraudulent Confession of, 53, 129, 136
- Designedly Maiming or Mutilating himself or another Soldier, 53, 148, 149
- Detachment Courts Martial, having the Power of Regimental Courts Martial, Constitution of, 74, 75, 76
- Discharged with Ignominy, 84, 35
- Disease, Feigning or Malingering, 150, 151
- Disgraceful Conduct, 17, 34, 35, 53, 147 to 157
- Disobeying the lawful Command of a Superior Officer, 11, 52, 121, 122
- District or Garrison Courts Martial, Constitution of, 9
- Power of, 12 to 19
- Dragoons ill-treating their Horses, 71, 162
- Drum-Head Courts Martial, Constitution and Power of, 77, 78
- Drunk and Riotous in the Streets or Barracks, 72, 182
- and Drawing his Bayonet, 72, 182
- when on or for Duty, or on Parade, or on the Line of March, 71, 144
- Drunkenness, Habitual, 35, 43, 67, to 70, 145, 146
- on Duty under Arms, 142, 143
- falsely accusing a Non-Commissioned Officer of, 73, 184
- Duty, Irregular Conduct on Escort, 54, 55, 163, 164

- EMBEZZLING, or Fraudulently misapplying Public Money, 147, 148
- Escaping from Confinement, 53, 136, 137
- Escort Duty, Irregular Conduct on, 54, 55, 163, 164
- Examination of Offenders by a Medical Officer, *before* Trial, 95
- *after* Trial, and before subjected to *Corporal* Punishment, 18
- Examination, Medical Certificate of, to be laid before the Court, and attached to the Proceedings, 78, 95
- Extracts from Court Martial Book, when admissible in Evidence, 58, 114
- Eyes, tampering with, 150, 151

- FALSE or Fraudulent Accounts, Returns, Production of, 156, 157
- Falsehood, Telling a, to screen a Comrade, 73, 188, 189
- Falsely accusing a Non-Commissioned Officer of Drunkenness, 73, 184

	PAGE.
Feigning Disease, or Malingering,	150, 151
Fighting and creating Disturbance in Barracks,	73, 187, 188
Firing off a Musket, loaded with Ball, in a Barrack-room, .	73, 192
Forcing or Striking a Sentinel,	54, 55, 166, 167
Forfeited Service, Restoration of,	50
Forfeiture of Additional Pay, Good Conduct Pay, and Pen- sion, for Disgraceful Conduct,	35
— of Pay, not exceeding a penny a day for 30 days, for Drunkenness on or for Duty or Parade, or on the Line of March,	43, 144
— of Pay for Habitual Drunkenness,	35 to 43, 67 to 70
— <i>Past Services</i> follows on a conviction of Desertion as a matter of Course,	49, 50
— <i>Future Service</i> for Desertion, optional with the Court, .	49
Form of Application for a Court Martial,	95, 98
— of Proceedings of a Court Martial,	106, to 109
— of Medical Certificate, to be attached to the Proceedings of a Court Martial,	95
— Summons to a Civil Witness,	110
— Proceedings of a Court of Inquiry,	111
— Application for the removal of Prisoners from one Place of Confinement to another,	100
— Certificate of previous Convictions, to be produced on a Prisoner's Trial, when the Court Martial Book itself is not produced,	114
Former Convictions and General Character,	57 to 60, 108
Forms of Charges (see <i>Charges</i>).	
Fraudulent Confession of Desertion,	53, 129, 130
Fraudulently Misapplying Public Money,	147, 148
GAOLERS to receive Military Offenders into Custody, and to deliver them up when required to do so by Military Authority,	25
Garrison Orders, Non-Commissioned Officers neglecting to obey them,	71, 140
— Privates neglecting to obey them,	71, 141
Government Stores, Purloining or Selling them,	152, 153
Guard or Picquet, Leaving it without Permission, . . .	53, 135, 136

	PAGE
Guilty, Plea of, when offered by a Prisoner,	103
HABITUAL Drunkenness,	35, 43, 67 to 70, 145, 146
Health of Prisoners, state of, to be ascertained <i>before</i> and after Trial,	18, 78, 95
Horses, Ill-treatment of, by Dragoons,	71, 162
IGNOMINY, Discharge with, at the Recommendation of a Dis- trict Court Martial,	34, 35
Ill-treatment of Soldiers by Non-Commissioned Officers, . .	71, 159
— of Horses by Dragoons,	71, 162
Imprisonment, Term of, to be reckoned as commencing from the day on which the <i>original</i> proceeding shall have been signed by the President,	34
— Place of, not to be fixed by the Court, but by the Con- firming Officer, or by the Officer Commanding the Corps to which the Offender belongs or is attached, .	22
— Extent to which it may be awarded by a District Court Martial,	19
— not to exceed 2 years by any Court Martial,	199, 200, 209
— Do., by a Regimental or Detachment Court Martial, . .	67
Improper Conduct towards Non-Commissioned Officers, . .	72, 183
Inquiry, Courts of, General Remarks upon the subject of them, 86 to 91 — Form of Proceedings,	111 to 113
Insubordinate and Outrageous Conduct towards a Superior Officer,	54, 55, 180, 181
Irregular Conduct on Escort Duty,	54, 55, 163, 164
JUDGE-ADVOCATE-GENERAL, London, the Proceedings of all District or Garrison Courts Martial to be transmitted without delay to,	61
— Deputy Judge-Advocates, their Powers, amended instruc- tions in regard to, &c.,	205, 206
LEAVING his Post without being regularly relieved, . . .	11, 134
— a Guard or Picquet, without permission,	53, 135, 136
Letters, Anonymous, imputing improper Motives and Con- duct to a Superior,	54, 55, 170, 171
Line of March, Drunkenness on,	36, 43, 66 to 69, 144

	PAGE
Losing by neglect, or making away with, Necessaries, &c. &c.,	71, 160
MAGISTRATES, refusing Assistance to, in the Apprehension of	
Military Persons accused of Civil Crimes,	53, 157, 158
Maiming,	53, 148, 149
— or Injuring another Soldier by Design,	53, 148, 149
Making away with Smart Money,	153, 154
Malingering, or Feigning Disease,	150, 151
Marking Deserters with Letter D.	127
Medical Examination of Offenders by a Medical Officer <i>before</i>	
Trial,	95
— Certificate of, to be laid before the Court, and <i>attached</i>	
to their proceedings,	78, 95
— of Offenders, <i>after</i> Trial, and before subjected to Corporal Punishment,	18
Members of Courts Martial, Challenge of, by a Prisoner,	101, 102
— Oaths to be administered to,	105
— of Courts of Inquiry, <i>not</i> sworn,	88
Military Prison, offering Violence in,	11, 52, 119, 120, 121
Military Witnesses,	79 to 85, 193, 197
Mixed Punishments (Corporal Punishment, Imprisonment,	
Solitary, or otherwise), when awarded by a District	
or Garrison Court Martial,	12 to 16
— (Solitary Confinement and Imprisonment), when awarded	
by a Regimental or Detachment Court Martial,	66, 67
Mutiny,	10, 52, 115, 116
NECESSARIES, losing or making away with,	71, 160
Neglect of Duty on the part of a Sentry,	72, 173
Non-Commissioned Officers, Soldiers permitting them to be	
assaulted by Civilians, without affording them any	
Assistance,	54, 55, 168, 169
— neglecting to obey any Garrison or other Orders,	71, 140
— Striking or ill-treating Soldiers,	71, 159
— Improper Conduct of Soldiers towards,	72, 183
— falsely accused by Soldiers of Drunkenness,	73, 184
— <i>Reprimanding</i> them by Courts Martial forbidden,	104

Non-Commissioned Officers—*continued.*

— Commanding a Guard or Picquet, suffering a Prisoner committed to his Charge to escape,	70, 139
— allowing a Prisoner in his Charge to get Drunk,	72, 172
OATHS, Form of, to be taken by Members of Courts Martial,	105
— Form of, to be taken by Witnesses of Courts Martial,	106
— not taken in Courts of Inquiry either by Members or Witnesses,	88
Obstructing and Assaulting Police,	54, 55, 164, 165
Offering Violence to, or Striking a Superior Officer,	11, 52, 117, 188
— in a Military Prison,	11, 52, 119, 120
Outrageous and Insubordinate Conduct towards a Superior Office,	54, 180, 181
PARADE, Drunk when for,	71, 144
— Absence without leave from,	71, 138, 139
Penal Servitude, Crimes punishable with, by Sentence of General Courts Martial,	115 to 127
Penal Servitude, Soldiers sentenced to, shall not as a consequence be discharged from the Service,	204
Persuading a Sentry to disobey the Orders of his Post,	72, 173, 174
Picquet or Guard, leaving it without Permission,	53, 135, 136
Police, Assaulting and Obstructing them in the Execution of their Duty,	54, 55, 164, 165
Post, a Sentry Sleeping on his, or leaving it without being relieved,	11, 52, 133, 134
— a Sentry disobeying the Orders of his,	72, 174, 175
Preferring Frivolous and unfounded Complaints,	73, 191
Presidents to insert the date of their signing the Proceedings of Courts Martial,	60, 113
— Rank of, on District or Garrison Courts Martial,	11
— Rank of, on Regimental and Detachment Courts Martial,	65
— Rank of, on Courts of Inquiry,	86, 111
Prisons, Military, offering Violence in,	11, 52, 119, 120
Prisoners to be warned that previous Convictions will be brought against them,	59
— Recommendation of, to Mercy,	104

Prisoners—continued.

— recommended as fit subjects for Discharge with Ignominy for Disgraceful Conduct, 34, 35, 116, 119, 121, 147 to 157	
— allowed to effect their escape from Confinement,	70, 139, 140
Proceedings of a Court Martial, Form of,	106
— Court of Inquiry, Form of,	111
Producing False or Fraudulent Accounts or Returns,	156, 157
Public Money, Misapplication of,	147
Purloining or Selling Government Stores,	152, 153
REASSEMBLING of Courts Martial for Revision,	62, 63, 109
— Court of Inquiry,	89, 113
Recommendation of a Prisoner to Mercy,	104
— for an Offender's Discharge with Ignominy for Disgraceful Conduct,	34, 116, 147 to 157
Refusing Assistance to a Magistrate in the Apprehension of Military Persons accused of Civil Crimes,	53 157, 158
Regimental Courts Martial, its composition,	65
— its powers,	66 to 73
— when under peculiar circumstances permitted to try Grave Offences,	44, 46, 47, 48
Restoration of Forfeited Service by Desertion,	50
Returns or Accounts, False Production of,	156
Rioting in the Streets or Barracks,	72, 182
SELLING or Purloining Governmen Stores,	152, 153
Sentinel, Striking or forcing a,	55, 166, 167
Sentry, Neglect of Duty on the part of a,	72, 173
— Persuading him to Disobey the Orders of his Post,	72, 173, 174
— Disobeying the Orders of his Post,	72, 174, 175
— Offering a Bribe to,	72, 175, 176
— Receiving a Bribe,	72, 176, 177
— Delivering over his Post to another Soldier without the presence of a Non-Commissioned Officer,	72, 177, 178
— Sleeping on his Post, or leaving it without being regularly Relieved,	11, 52, 133, 134
Sergeants, Reprimanding them by Sentence of Courts Martial forbidden,	104
Sketch of Proceedings of Court Martial,	106

	PAGE
Sketch of Proceedings of Court of Inquiry,	111
Smart Money, making away with,	153, 154
Solitary Confinement, Extent to which it can be awarded by District or Garrison Courts Martial,	15
Solitary Confinement, Extent to which it can be awarded by Regimental and Detachment Courts Martial,	66, 70
Stealing,	151, 152
Stoppages, Prisoner sentenced to be placed under,	12 to 15, 69
Striking a Comrade,	73, 186, 187
— or offering Violence to a Superior Officer,	11, 52, 117, 118
— by Prisoners confined in Military Prisons,	11, 52, 119, 120
Superior Officers, Disobeying the Lawful Commands of,	11, 52, 121, 122
— Insubordinate and Outrageous Conduct towards,	54, 180, 181
— Writing an anonymous Letter, imputing improper Con- duct and Motives to,	54, 55, 170
Summons to Civil Witnesses,	81, 82, 110
TAMPERING with Eyes,	150, 151
Tattoo, Absence without Leave from,	72, 132
Telling a Falsehood to screen a Comrade,	73, 188
Theft,	151, 152
VAGUE and Indefinite Charges, Preferring of, forbidden,	44
Violence, Offer of, to a Superior Officer,	11, 52, 117, 118
— to a Visitor or other Superior Military Officer in Provost Prison	11, 52, 119, 120
Votes of Members, Order in which they should be taken,	106
WITNESSES, Military, failing to attend at a Court Martial,	81, 193, 197
— refusing to be sworn,	81, 194, 195
— when sworn, refusing to give Evidence,	81, 196, 197
— Civil, Form of Summons to,	110
— Allowance to,	84
— Suggestions applicable to,	79, 85
— at Courts Martial, must be examined on Oath,	57, 105
— at Courts of Inquiry, not to be sworn,	88
Writing an Anonymous Letter, imputing improper Conduct to a Superior,	54, 55, 170, 171



